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FROM

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THE

TOWN OFFICER'S GUIDE,

CONTAINING A COMPILATION OF THE

GENERAL LAWS OF MASSACHUSETTS,

RELATING TO THE WHOLE POWER AND DUTY OF

TOWNS, DISTRICTS AND PARISHES,

WITH THEIR SEVERAL OFFICERS;

WITH A DIGEST OF THE DECISIONS IN THE

SUPREME JUDICIAL COURT

OF MASSACHUSETTS, RELATING TO THE SEVERAL SUBJECTS.

TO WHICH IS SUBJOINED AN EXTENSIVE

APPENDIX OF FORMS,

FOR THE USE OF TOWN OFFICERS AND INDIVIDUALS.

BY JOHN BACON, ESQ.

"Keep them strictly to Forms and to their duty, and they will be regular."
Washington.

HAVERHILL, MS.
E. W. Reinhart—*Printer.*

1825.

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District of Massachusetts, TO WIT:

DISTRICT CLERK'S OFFICE.

Seal. BE IT REMEMBERED, that on the eighth day of February, A. D. 1825 in the forty ninth year of the Independence of the United States of America, JOHN BACON, Esq. of the said District, has deposited in this office the title of a Book, the right whereof he claims as Author, in the words following, to wit:

"The Town Officer's Guide, containing a compilation of the General laws of Massachusetts, relating to the whole power and duty of towns, districts and parishes, with their several officers; with a digest of the decisions in the Supreme Judicial Court of Massachusetts, relating to the several subjects. To which is subjoined an extensive Appendix of Forms, for the use of town officers and individuals. By John Bacon, Esq. 'Keep them strictly to Forms and to their duty, and they will be regular.'—Washington."

In conformity to the Act of the Congress of the United States, entitled "An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies, during the times therein mentioned:" and also to an Act, entitled "An act supplementary to an Act, entitled, An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such copies, during the times therein mentioned; and extending the benefits thereof to the arts of designing, engraving, and etching historical, and other prints."

JNO. W. DAVIS,
Clerk of the District of Massachusetts.

TO JOHN QUINCY ADAMS,

PRESIDENT OF THE UNITED STATES OF AMERICA.

May it Please Your Excellency,

THAT a book of this size, by a person of my obscurity, should, in so short a space of time after your elevation to the highest station in the gift of freemen, be dedicated to you, must be imputed to the influence of your name, which is of weight sufficient to stamp authority upon this effort, and to induce all men to read what you may not disdain to approve.

There is something, I hope, in the laudableness of my intentions, which, in conjunction with the influence of your name, will be the means to conciliate the good opinion of the public, and to give this work a greater currency; for the design, which I now present to you, is, so to methodize, explain and illustrate the municipal laws of your native state, as to remove the difficulties in understanding them.

Were I under no previous obligation to you, (as indeed all the good citizens of Massachusetts are, to one

who has conferred so much honor upon them,) the very nature of my subject would remit me to you, who were always a known encourager of works of this kind, and who ever followed the example of your venerable father, in maintaining the authority of our laws, and the purity of our state and national constitutions.

Since it is our lot to live in an age wherein the laws and constitutions are liable to be slighted, and their interpreters and ministers treated with despite, we ought to account it the peculiar blessing of Heaven, that in this great country, we have one presiding over us, who is so well qualified to vindicate the cause of liberty and justice, and by his example and encouragement to animate us in their defence.

To you, Sir, we owe the reputation in which New England now so honorably stands in the estimation of the whole country; to you we owe in a great measure, that wise policy of government which during the administration of the virtuous, the amiable, the patriotic Monroe, has made this country happy at home, respected abroad; to you we owe the knowledge of our foreign relations, which with great care and pains indefatigable, you have digested and explained; to you we owe the defence of those immunities and privileges, and the preservation of those rights and possessions, with which our laws and constitutions have invested us.

Whatever then, the perverseness of this present *generation may be,* future ages must be told, what an

exquisite judge and master of all useful learning, what a firm friend to men of merit, what a true patriot to your country, what an able protector of your country's honor and strenuous asserter of its rights and privileges your excellency has invariably been.

That the great *Giver of every good and perfect gift* may long preserve your excellency a public blessing to this nation, is the fervent prayer of,

Your Excellency's

Most obedient servant,

JOHN BACON.

Recommendation of the Hon. John Varnum, Member of 19th Congress, Counsellor at Law, and late Judge Advocate of the 2d Division M. M., and of Isaac R. How, Esq. Counsellor at Law.

JOHN BACON, ESQ.

Sir,

We have examined the copy of the Town Officer you had the goodness to send us. The powers and duties of the various town officers as collected both from the statutes of the Commonwealth and the decisions of the Supreme Judicial Court, and the forms of the papers they are required to sign, are stated distinctly and with precision, and we recommend the book to the public, particularly to selectmen, town-clerks, overseers of the poor, constables, surveyors of highways and other town officers, and to Justices of the Peace as a constant and useful manual, and a great improvement upon any treatise of the kind, with which we are acquainted.

JOHN VARNUM.
ISAAC R. HOW.

Haverhill, Feb. 23, 1825.

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* *The oath of each officer is found at the page referred to by the first column.*

ADDITIONS AND CORRECTIONS.

Page 9, 3d line from top, for 1785 C. "9" read 1785 C. "75."
do. 5th line from bottom, for "votes" read "voters."
11, 4th line from top, for Sec. "13" read Sec. "3."
12, 9th line from top, for "27" read "28."
do. 12th line from bottom, for "as" read "at."
80, at head 3, for "premium" read "previous."
87, or 161, Statute of 1799 C. 83, should have been insertserted; which provides that all Assessors may give a Collector a new warrant, when he shall make it appear that the original one was *lost* or destroyed by accident.
95, 6th line from the bottom, for "Freeport" read "Westport.
102, dele "or" at the close of head 9.
115, It should have been observed that Statute of 1793 C.34, was passed Feb. 11, 1794.
116, at top "Mass. Rep." should be added.
124, under ancient settlements, for "defaulted" read "defeated," and for "Sec. 2," read "Sec. 12."
140, Statute of 1807 C. 134, respecting collecting taxes in Boston should have been inserted: It is in the Special Laws.
160, bottom for, "or his own town" read "or his own turn."
171, 7th line from top, for "sums" read "same."
234, Inspectors and Markers of Lighters. A Law passed Feb. 10 1823, escaped the notice of the compiler, which essentially alters the duty of these officers, and of Selectmen in this particular.
247, 10th line from top, for "four" read "four and a half."
do. 11th line from top, for "not" read "none."
250, 9th line from bottom, for "per" read "for."
283, Form 21, for "Esquire" &c. read "Town Clerk" &c. if signed by the Town Clerk.
318, 6th line from top, for "or" read "of."
320, 10th line from top, for "portion" read "proportion."
321, It should have been observed that "a tax act is sent to every town *annually*, which forms the basis on which *all taxes* must be made. Assessors of Parishes and Societies, should never attempt to assess a tax without obtaining this, which they can, of the town Assessors."
336, for "West Cambridge" read "West Sudbury."
368, bottom line for "or" read "at."
374, It should have been observed that the 5th column is useful to Selectmen in the revision of jury boxes—see page 43.
377, Reps. in Middlesex, for "41" read "63."
378, Against Freetown, for "1183" read "1683."
388, 1st line, for page 366 refer to this page.

THE

TOWN OFFICER'S GUIDE.

MODERATOR.

Of this officer no oath is required.

HEADS.

1 Choice. 2 Town Meeting.

1. *Choice.*

1811 C. 9, Sec. 2. He is chosen by *written ballots* (except in Boston.)

2. *Town Meeting.*

1785 C. 9, Sec. 6. At every town meeting, a moderator shall first be chosen by a majority of votes, who shall be thereby empowered to manage and regulate the business of the meeting.

In case no Justice of the Peace be present, the moderator is authorized to administer the oath to the town clerk, in open town meeting.

Sec. 5. No matter or thing acted upon shall have any legal operation whatever, unless the subject matter thereof be inserted in the warrant for calling the meeting.

Sec. 6. When a vote declared by the moderator, shall, immediately after such declaration, be scrupled or questioned by seven or more of the voters present, he shall make the vote certain by polling the votes, or such other way as the meeting shall choose.

No person shall speak in the meeting before leave obtained of the moderator, nor when any person is orderly *speaking; and all* persons shall be silent at the

desire of the moderator on pain of forfeiting *five shillings* for the breach of every such order, to the use of the town; and if any person shall, after notice from the moderator, persist in his disorderly behaviour, then it shall be lawful for the moderator to direct such disorderly person to withdraw from the meeting; and such disorderly person upon his refusal or neglect to withdraw shall pay a fine of *twenty shillings** to the use of the same town; and may also, by direction of the moderator, be carried out of the meeting by some constable of the town, and be put into the stocks, cage, or some other place of confinement, and there be detained for the space of three hours, unless the town meeting shall sooner adjourn or dissolve.

All suits and information for the aforesaid fines if not exceeding forty shillings may be heard and determined before any Justice of the Peace in the same county, not an inhabitant of the same town, unto whom the penalty or any part thereof is given, who, upon conviction, may enforce the payment thereof by a uniform process as is provided in the statute of 1785 C. 75, Sec. 3, in the court of general sessions of the peace, for persons who refuse to serve in the office of constable.

1811 C. 9, Sec. 3. If he shall, without the consent of the voter, read or examine, or permit any other person to read or examine the name or names written on his ballot or ticket, with a view to ascertain the name of the candidate voted for, before the poll is closed, the moderator, so offending, shall on conviction forfeit and pay to the use of such town the sum of twenty dollars, to be recovered by indictment in any court proper to try the same.

Act passed 1823, Feb. 11. The moderator is not liable for refusing the vote of any voter not on the list of voters.

* Commonwealth vs. T. H. Hoxey. Mass. Reports vol. 16, page 385. The penalty for disorderly behaviour in town meetings does not attach, unless the offender persists in such behaviour; after notice from the moderator, and does not withdraw from the meeting, after being directed so to do by the moderator.

1813 C. 68, Sec. 2. If any person shall give in more than one vote* for any officer or officers, he shall pay a fine of *one hundred dollars.*

Sect. 13. Persons attempting to vote, knowing themselves to be not qualified forfeit not exceeding *fifty dollars.* Persons aiding or abetting, forfeit not exceeding *thirty dollars.*

1813 C. 195. A moderator must not receive the vote of any person in the military service of the United States.

For further duty of a moderator, see selectmen, Head 7, and for County Treasurer and County Register, see town clerk, head 7 and 8.

TOWN CLERK.

OATH.

1785 C. 75, sec. 2.] *YOU solemnly swear, that, as Town Clerk of the town of , for the ensuing municipal year, you will truly record all votes passed at each and every town meeting during the year, and until another Clerk shall be chosen and sworn in your stead, and will faithfully discharge all the other duties of your said office. So help you God.*

HEADS.

1 Choice. 2 Town Meeting. 3 Elections of Governor and Lieutenant Governor. 4 Elections of Counsellors and Senators. 5 Elections of Representatives to the General Court. 6 Elections of Representatives to Congress. 7 Elections of County Treasurer. 8 Elections of County Register. 9 Jurors. 10 Pub-

*Commonwealth vs. Silsbee. Mass. Reports vol. 9, page 417. It is a misdemeanor at common law for a citizen who is a legal voter at a town meeting, to give more than one vote for a municipal officer, at one time of balloting.

lishment and Marriages. 11 Births and Deaths. 12 Lost Goods and Stray Beasts. 13 Cattle Impounded. 14 Swine Impounded. 15 Guardians. 16 Constables. 17 State Tax. 18 Commissioners and Appraisers. 19 Pews. 20 Religious Certificates. 21 Quakers. 22 Fences. 23 Mischievous Dogs. 24 Subpœnas for Witnesses. 25 Act to prevent Cursing and Swearing. 26 Riot Act. 27 Licences for Tavern keepers. 27 Licences of Physicians.

1. *Choice.*

1785 C. 75, Sec. 2: 1811 C. 9, Sec. 2. He is chosen at the annual town meeting in March or April, by *written ballots* (except in Boston.)

2. *Town Meeting.*

1798 C. 33, Sec. 4. He shall cause the act to prevent profane cursing and swearing to be read at the opening of the annual town meeting—for neglect of this duty he forfeits *ten dollars* to be recovered by action of debt, one moiety to the person sueing for the same, and the other moiety to the use of the Commonwealth.* For the act, see town clerk, head 25.

* 1800 C. 57, Sec. 4. All penalties and forfeitures given or limited by any act of this Commonwealth, in whole or in part to the use of the Commonwealth, may be recovered by indictment in any court proper to try the same.

* 1788 C. 12. Sec. 1. When there is no term limited by the statute for forfeitures, the action must be commenced within one year after the offence is committed, by any person that may lawfully pursue the same, or he will lose his proportion of the penalty; and in default of such pursuit, then the same shall be prosecuted for the Commonwealth as any time within two years, and if brought after the time limited, it shall be void and of none effect.

NOTE. 1793 C. 43, Sec. 4. All pecuniary fines or forfeitures made or that may be made recoverable, by bill, plaint or information, or by any other modes of prosecution, by any law of this Commonwealth, or for the recovery whereof no mode shall be prescribed, shall and may be sued for and recovered by action of debt, in any court proper to try the same, any law, custom or usage to the contrary notwithstanding. *Provided always*, that nothing in this act shall be construed to take away any remedy already provided in and by the act of this Commonwealth for any forfeiture declared thereby.

1786 C. 38, Sec. 4. He is to read the Riot Act, at the anniversary town meeting.

For the Act, see town clerk, head 26.

1811 C. 9, Sec. 2. During the election of the Moderator for any town meeting, the town clerk shall preside, and shall have all the powers and do all the duties which the moderator of a town meeting now by law has and does perform.

Mass. Reports, v. 9, page 262. Dodds vs. Henry. He is to receive and record the votes given in for a moderator.

1785 C. 75, Sec. 2. He is to record all votes passed, until another is chosen and *sworn* in his stead.

Mass. Reports, v. 11, page 477. John Wells and others vs. Battelle and others. He may amend a record made by him when in office under a former election, such amendment being consistent with the truth.

1785 C. 76, Sec. 2. The town clerk, or two of the selectmen, shall forthwith make out a list [see form 1.] of the names of all those who shall be chosen into office, of whom an oath is by law required, and deliver the same to some constable or constables of the same town, together with a warrant [see form 1.] to him or them directed, who is hereby required within *three days* after receiving such warrant, to notify and summon each of the said persons to appear before the town clerk within *seven days** from the time of such notice, to take the oath by law prescribed to the office into which they are severally chosen; and every person who shall neglect to appear before the town clerk, within the said seven days, and take the oath of office unto which he is chosen and summoned as aforesaid, which oath the town clerk is hereby authorised to administer, (unless such person is by law exempted from serving in the office) shall forfeit and pay to him

* Mass. Reports, v. 10, Page 105. Peter Colman and others, against Mary Anderson. Town clerks have authority to swear town officers, as well after the expiration of seven days as within that time.

or them that will inform or prosecute therefor, the sum of *thirty shillings*, [To recover the penalty see Form 111.] except constables and such other officers, for whose neglect a different penalty [Assessors, Surveyors of highways, and Constables have a different penalty,] is provided, two thirds to the use of the town, and the other third to the use of the prosecutor. *Provided always*, that any person who shall take the oath of office before a Justice of the Peace, and file a certificate thereof with the town clerk, within the said ten days, shall be exempted from the said fine. *See constables, head* 2. The town clerk shall make a record of such persons as shall, from time to time, be sworn into office before him, or of such as shall file certificates of their being sworn as aforesaid.

Sec. 3. No person shall be obliged to serve in any town office two years successively.

General Duty.—The town clerk should, as soon as may be after town meeting, make out copies of all votes appointing Committees and deliver the same to the chairman, with the votes passed respecting their duty—Also all bills allowed by a vote of the town should be certified to the selectmen. He should also deliver to the selectmen and assessors, copies of all votes for raising money, and state the particular purposes for which every sum was raised. (For additional instruction see head of Form 159.)

3. *Elections of Governor and Lieutenant Governor. (for City, see Con. Amendments Art.* 2.)

1806 C. 26, Sec. 1. It shall be the duty of the selectmen, and of the town or district clerks, within this Commonwealth, and of the assessors of Plantations* which are entitled by the Constitution to the privilege of voting for Governor and Lieutenant Governor, and for Senators and Counsellors, for their respective districts, to make and seal up a separate †list

*Mass. Reports, v. 3, page 502. The Constitution doth not authorize the inhabitants of *unincorporated* Plantations to give in *their votes for Governor* and Lieutenant Governor.

† *See Form 3.*

of the persons voted for as Governor and Lieutenant Governor, in the several towns, districts, or plantations, and transmit the same to the secretary of the Commonwealth, or to the sheriffs of their respective counties, according to the provisions of the Constitution.

Constitution Chap. 2, Sec. 1, Art. 3. Electors are required to give in their votes to the selectmen who preside at such meetings, and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list* of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the last Wednesday of May: or the selectmen may cause returns of the same to be made to the office of the secretary of this Commonwealth, seventeen days at least before the said day. 1795 C. 55, Sec. 2. Penalty for neglect of duty, not more than $80 nor less than $40.

4. *Election of Counsellors and Senators.*

1806 C. 26, Sec. 2. It shall be the duty of the several selectmen, clerks and assessors aforesaid, to make and seal up a separate list [see Form 4.] of the persons voted for as Counsellors and Senators, in the several towns, districts and plantations, and transmit the same to the secretary of the Commonwealth, or to the sheriffs of their respective counties, according to the provisions of the Constitution.

Constitution, Chap. 1, Sec. 2. Electors are required to give in their votes to the selectmen who are to sort and count them in the presence of the town clerk.

The town clerk shall make a fair record, in presence of the selectmen, and in open town meeting, of

* *See Form 3.*

the name of every person voted for, and of the number of votes against his name; and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up directed to the secretary of the Commonwealth for the time being, with a superscription expressing the purport of the contents thereof, and delivered by the town clerk of such town, to the sheriff of the county in which such town lies, *thirty days* at least before the last Wednesday in May, annually; or it shall be delivered into the secretary's office *seventeen days* before the said last Wednesday of May. Penalty for neglect of duty, not less than $40, nor more than 80, see 1795 C. 55, Sec. 2.

5. *Elections of Representative to the General Court.*

1795 C. 55, Sec. 1. Elections of Representatives to the General Court are to be recorded in the town records, together with the whole number of votes given in, and for whom they were given. Penalty for neglect of the clerks duty in this statute, not less than $40, nor more than $80. See selectmen, head 9.

6. *Elections of Representatives to Congress.*

Law passed June 15, 1822, Sec. 3. The Mayor and Aldermen of the City of Boston, and the selectmen of the several towns and districts within this Commonwealth, shall in manner as the law directs for holding elections therein, cause the inhabitants of their respective towns and districts, duly qualified to vote for Representatives in the General Court, to assemble on the first Monday of November biennially, beginning in November next, to give in their votes for their respective Representatives, and at such town and district meetings, the selectmen or the major part of them, shall preside, and shall in open town meeting, receive, sort and count the votes, and shall form a list of the names of the persons voted for, with the number of votes for each person written in words at length, against his name; and the town clerk shall make a record thereof, and the selectmen shall in such meeting, *make public declaration* of the persons voted for, and

of the number of votes they respectively have, and shall in open town meeting seal up the said lists [see Form 48—Warrant Form 46.] certified by the selectmen, and express upon the outside of the said list, the district in which the votes were given, and shall transmit the same within fourteen days next after such meeting to the secretary of the Commonwealth, or to the sheriff of the county in which such town or district lies.

Selectmen of such towns and districts as lie within any county in which there may be no sheriff, shall return such list to the secretary's office, within forty days after the meeting.

Penalty for neglect of duty in this act prescribed, not less than $30 nor more than $200—to be recovered by indictment, one half to the prosecutor and one half to the Commonwealth.

7. *Elections of County Treasurer.*

1785 C. 76, Sec. 1. The County Treasurer is chosen annually, in the month of March or April, by the *written* votes of such persons as are qualified by the Constitution to vote for Representatives, and he must be a freeholder, a discreet suitable person, and resident in the county.

The votes to be counted and sorted in the town or district meeting by the moderator and town clerk; the names of the persons voted for, and the number each person had, shall be recorded by the clerk in the town or district book, and an attested copy [see Form 5.] of such record shall be transmitted, under seal, to the next Court of General Sessions of the Peace, to be held within and for the same county, on the first day of the Court's sitting.

8. *Elections of County Register, (or Register of Deeds.)*

1783 C. 60, Sec. 1. There shall be chosen in each county within this Commonwealth, by the *written votes of such persons* as are by the Constitution

qualified to vote for Representatives in the several towns, at their respective annual town meetings, in the month of March 1786, some discreet, suitable person, having a freehold within the same county, of the annual income of ten pounds at the least, the votes to be counted and sorted in the town meeting by such persons as shall be chosen to count and sort the votes for that meeting; the names of the persons voted for, and the number of votes each person had, shall be recorded by the town clerk, in the town book, and an attested copy [see Form 6.] of such record shall be transmitted under seal to the next Court of General Sessions of the Peace, to be held within and for the county, on the first day of the Court's sitting there.

Sec. 5. The qualified voters as aforesaid in each town, at their annual meeting in March 1791, and every five years from thence successively following, forever, at their several town meetings in March or April, shall be and hereby are empowered and required, to proceed to choose a Register of Deeds for each county, in manner as before expressed.

9. *Jurors.*

1807 C. 140, Sec. 5. and 1812 C. 141, Sec. 2.—The town or district clerk, shall keep the jury box, and carry the same into the meeting, when warned by the constable to draw jurors.

1807 C. 140, Sec. 17. Contains the penalties for neglect of duty, which are large.

10. *Publishment and Marriages.*

1786 C. 3, Sec. 3. All persons desiring to be joined in marriage, shall have such their intention published at three public religious meetings, on different days, at *three days distance* exclusively at least from each other, in the town or district, wherein they respectively dwell, or shall have their intentions of marriage [see Form 7.] posted up by the clerk of such town or district, by the space of fourteen days, in some public *place, within the* same town or district, fairly written,

and shall also produce to the Justice or Minister, who shall be desired to marry them, a certificate [see Form 8.] of such publishment, under the hand of the clerk of such town or district, respectively; and also, that the intention of marriage hath been entered with him fourteen days, prior to the date of such certificate.

In case the parties, or either of them, live in a town, district or place, where there shall be no clerk, then publishment shall be made in the town or district next adjoining, in manner aforesaid, and a certificate from the same town or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, shall be produced as aforesaid, previous to their marriage.

Sec. 4. If, at any time, the banns of matrimony are forbidden, and the reasons thereof assigned, in writing, by the person forbidding the same, left with the town or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into and determined, before two Justices of the same county, *quorum unus; Provided*, the persons forbidding the banns shall, within *seven days* after filing the reasons as aforesaid, apply unto two Justices as aforesaid, and procure their determination thereon; unless the said Justices shall certify unto the said clerk, that a further time is necessary for their determination on the reasons filed; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the Justices shall sooner determine; according to whose determination the clerk shall govern himself herein. If the Justices determine the reasons not sufficient, the person forbidding shall pay all cost.

Sec. 5. If any person shall deface or pull down any publishment as aforesaid posted up, before the expiration of the said fourteen days, he shall forfeit and pay *twenty shillings*, to the use of the town; and if unable to pay, may be set in the stocks one hour.

Sec. 6. Every justice and minister shall make and

keep a particular record of all marriages solemnized before them respectively; and in the month of April, yearly, and every year, shall make a return [see Form 9] to the clerk of the town, district or plantation in which he lives, certifying the names (both christian and surnames) of all the persons who have been by them respectively joined together in marriage within the year then last past, if any such have been by them joined together.

And if any justice or minister shall neglect to make such return, within the month of April, annually, the clerk of the town, district or plantation, where such delinquent justice or minister lives, shall, without delay, certify [see Form 10] such neglect to the clerk of the Court of General Sessions of the Peace of the same county.

And every town and district clerk, shall duly and seasonably record all marriages, certified by him as aforesaid.

FEES. 1795 C. 41, Sec. 1. To the Town Clerk for publishing the banns of matrimony, recording the same, giving certificate of the publishment, and recording the marriage upon receiving the justice's or minister's certificate thereof, *fifty cents* to be paid by the man published, on receiving a certificate of publishment.

11. *Births and Deaths.*

1795 C. 69, Sec. 1. It shall be the duty of every town clerk, and every district clerk, to record all births and deaths which shall happen within his town or district, and come to his knowledge, together with the time of such birth or death, and the names of his or her parents, if known, for the fees allowed, by law, to be paid by his town or district.

1795 C. 41, Sec. 1. *Fees*—To the town clerk, for recording births and deaths, *eight cents* each. For a certificate of a birth or death, *ten cents.*

NOTE. 1795 C. 69, Sec. 1. It shall be the duty *of parents to give* notice to the clerk of the town or

district in which they dwell, of all the births and deaths of their children; and it shall be the duty of every house holder to give notice of every birth and death which may happen in his house; and of the eldest person next of kin to give such notice of the death of his kindred; and it shall be the duty of the master or keeper of any alms house, work house or prison, and of the master or commander of any ship or vessel, to give notice of every birth and death which may happen in the house or vessel under his care or charge, to the clerk of the town or district in which such event shall happen: And in case any person whose duty it shall be, to give notice as aforesaid, shall neglect to perform the same for the space of six months after the birth or death shall happen, the person so neglecting shall pay a fine of *one dollar*, to be recovered, with costs of suit, on complaint before any Justice of the Peace for the same county, to the use of any inhabitant of the same town who shall prosecute for the same; from which judgment there shall be no appeal.

12. *Lost Goods and Stray Beasts.*

1788 C. 55, Sec. 1. Whoever shall find any Money or Goods lost, of the value of *six shillings* or upwards, whereof the owner is unknown, the finder shall, within ten days next following, at the furthest, give notice thereof, [see Form 12] in writing, unto the clerk of the town in which they are found, and pay him *one shilling and six pence*, for making an entry thereof in a book to be kept for that purpose, and for procuring the same to be recorded with the register of deeds for the same county. And the finder shall cause a notification thereof to be posted up [see Form 13] in some public place within the same town, and also shall cause the same to be publicly cried therein, on three several days, provided there shall be any public crier in said town: And if the money or goods, so found, be of the value *of forty shillings* or upwards, then to be *cried as aforesaid, and notice* thereof posted up in like

manner in the same, and the two next adjoining towns, within one month next after such finding.

Sec. 2. Every person who shall find and take up any Stray Beast, [see Form 14] shall cause the same to be entered, with the colour and marks, natural and artificial, and also to be posted up and cried in manner and time as aforesaid; and likewise within ten days, put, and from time to time keep a withe about the neck of such stray beast (sheep only excepted from being withed) on pain of losing all his charges about it afterwards: And such finder of lost goods or stray beast, shall also within *two months*, and before any use or improvement thereof is made to its disadvantage procure from the town clerk, or a Justice of the Peace, a warrant [see Form 15] directed to two such disinterested, judicious persons, as the Clerk or Justice shall appoint, returnable into the town clerk's office in *seven days* from the date, to appraise and value the goods or stray beast upon oath, at the true value thereof in money, according to their best judgment, and to administer an oath [see Form 16] unto them for that purpose accordingly; which warrant and oath the clerk and Justice are hereby respectively authorized to issue and administer.

Sec. 3. If the owner of any such lost money, goods, or stray beast, appear within one year and a day next *after such notice* of the finding given to the town clerk as aforesaid, and make out his right and title thereunto, he shall have restitution of the same, or the full value thereof, allowing and paying *three pence* for each time it was cried, and the money paid for entering the same as aforesaid, together with such necessary charges as shall have arisen in keeping, notifying, appraising, and necessary travel respecting the business, to be liquidated and adjusted by some Justice of the Peace for the same county, in case of disagreement between the owner and the finder: And if no owner appear within *one year* and a day as aforesaid, then such strays, *lost money or goods*, shall be and remain to the finder.

he paying one half the value thereof (all necessary charges being first deducted) according to appraisement, unto the treasurer of the town, for the use of the poor thereof, and to be recovered by the town treasurer (upon neglect or refusal to pay the same) as in other cases.

Sec. 4. The town clerk shall once every *two months* transmit to the register of deeds in the county where he lives, an authentic copy under his hand of all entries that shall be made with him of lost money, goods, or strays, excepting all such lost goods or strays as shall be delivered to the owner thereof, within the said *two months*, and shall pay to the register *six pence* for each copy of an entry transmitted to him as aforesaid; and the register shall keep a book, to record such entries and give out copies at the price of *six pence* each, *two pence* for searching the record. Town clerks or registers who neglect their duty in this act provided, having their fees tendered to them shall forfeit *forty shillings*, one half to the county and the other half to the prosecutor.

Sec. 5. If any finder of any lost goods, money, or stray beast, of the value of *six shillings*, or upwards, shall neglect to cause the same to be entered, cried and posted up in manner and time as before directed, or to withe such stray beast, he shall forfeit and pay the full value of such goods, money or stray beast, one half to the use of the county, and the other half to the prosecutor: And if the owner of any stray beast, or other person shall take off the withe from the same, or take away such stray beast before all the necessary charges thereof be defrayed, such person, so offending, shall forfeit and pay, unto the finder of such stray beast, the full value of the same.

Sec. 6. No person from the fifteenth day of April to the first day of November, shall take up any horse, gelding, mare or other beast for a stray, unless such beast be taken damage feasant, in some inclosure, and *impounded for that*, or some other sufficient cause.

1815 C. 1, Sec. 1. Any person who shall find and take up any horse or horse kind, as a stray, and shall have procured the same to be appraised agreeable to the above act, in case the same shall be appraised at a sum not exceeding *twenty dollars*, shall at the expiration of two months after such appraisal, proceed to sell the same at public vendue, having given four days previous notice of the time and place of sale, and shall pay over the money for which such horse may be sold, to the treasurer of the town in which he lives, after deducting therefrom the expenses of taking up, as provided in the statute of 1788 C. 55 above, with *one dollar* for his fee in selling.

Sec. 2. The owner of such horse, so taken up and sold shall be entitled to receive the money so deposited with the town treasurer, *Provided*, he shall apply for the same within one year after the same shall have been paid to the treasurer aforesaid; and in case the owner of such horse shall neglect to apply for such money for the term of one year, the same shall be appropriated as is provided by the statute of 1788 C. 55, before inserted.

13. *Cattle Impounded.*

For town clerk's duty when cattle are impounded, see Field Driver, head 4.

He may appoint persons to appraise [see Form 18, 19, 20, 21, 22, 23.] damages done by creatures, &c. for which, see Field Driver, head 4.

14. *Swine Impounded.*

1788 C. 56, Sec. 1. He may issue a precept [see Form 24 & 25.] to sell swine impounded, if it appears to his satisfaction that the impounder has complied with the directions of the law in such cases. See Hog Reeve.

15. *Guardians.*

1783 C. 38, Sec. 1. He may certify [see Form 26 & 27.] to the Judges of Probate, the choice of a *Guardian*, made by any minor above the age of four-

teen years, and living more than ten miles from the Judges dwelling house, when there is no Justice dwelling in the town.

16. *Constables.*

1785 C. 75, Sec. 3. A certificate [see Form 28.] under the hand of the town clerk, (or two of the selectmen,) that a person was legally chosen to the office of Constable, shall be admitted as evidence of the fact.—*See Constable, head* 1.

17. *State Tax.*

1785 C. 46, Sec. 2. The town clerk, or one of the assessors may give the sheriff a certificate of having received a warrant from the state treasurer, for a state tax.

18. *Commissioners and Appraisers.*

1783 C. 32, Sec. 14, and 1817 C. 190, Sec. 27.—The town clerk may administer the oath [see Form 29.] to commissioners and appraisers, when there is no Justice of the Peace in the town; and a certificate [see Form 30.] of the oath must be returned to the Probate office from whence the warrant issued.

19. *Pews.*

1795 C. 53, Sec. 1. All pews and rights in houses of public worship, (except in Boston, see 1798 C. 42,) are real estate.

Sec. 2. All deeds and conveyances of, and executions extended on such pews and rights, may be recorded by the clerk of the town, and shall have the same effect as if recorded with the register of deeds.

Fees for recording, the same as registers of deeds.

20. *Religious Certificates.*

1811 C. 6, Sec. 2. Certificates [see Form 31.] of persons becoming members of religious societies were to be filed with the town clerk, but see Parish, head 10.

21. *Quakers.*

1797 C. 23, Sec. 2. The town clerk shall enter in

the book, the certificates [see Form 32.] of Quakers with the time when the same was delivered to him, and deliver an attested copy of the same to any person desiring it, receiving therefor *twelve and an half cents.*

22. *Fences.*

1785 C. 52, Sec. 3. Assignment, or divisions of fences are to be recorded in the town clerk's office.

23. *Mischievous Dogs.*

1791 C. 38, Sec. 2. Town clerk or a Justice of the Peace, may administer the oath, [see Form 33 & 34.] to a person who suspects a mischievous or dangerous dog.

24. *Subpœnas for Witnesses.*

1784 C. 28, Sec. 5. Town clerk may grant summons [see Form 35] for witnesses in *civil causes.*

25. *An Act to prevent Profane Cursing and Swearing.*

1798 C. 33. WHEREAS the horrible practice o profane cursing and swearing is inconsistent with the dignity and rational cultivation of the human mind, with a due reverence of the Supreme Being and his Providence, and hath a natural tendency to weaken the solemnity and obligation of oaths lawfully taken in the administration of Justice; to promote falsehood, perjuries, blasphemies and dissoluteness of manners, and to loosen the bonds of civil society:

Sec. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That if any person, who has arrived at discretion, shall profanely curse or swear, and shall be thereof convicted, such person so offending shall forfeit and pay a sum not exceeding two dollars, nor less than one dollar, according to the aggravation of the offence, and the quality and circumstances of the offender, in the judgment of the court *or Justice of the* Peace before whom the conviction

may be; and in case the same person shall, after one conviction as aforesaid, offend a second time, such offender shall forfeit and pay, upon such second conviction, double the sum forfeited on the first conviction; and in case the same person shall, after two convictions as aforesaid, again offend, such offender shall forfeit and pay, upon each and every subsequent conviction, treble the sum forfeited on the first conviction; and if on any trial and conviction, proof shall be made that more than one profane oath or curse were sworn or uttered by the same person at the same time, and in the presence or hearing of the same witness or witnesses, the person so offending, for every profane oath or curse after the first, shall forfeit and pay a sum not exceeding fifty cents, nor less than twenty-five cents, in addition to the sum forfeited as first above specified; one moiety of the several forfeitures aforesaid to be to the use of the poor of the town in which the offence shall have been committed, and the other moiety thereof to the use of the person or persons who shall make complaint thereof, or prosecute for the same. And in case any person, convicted of profane cursing and swearing, shall not immediately pay the sum or sums so forfeited, such person shall be committed to the common gaol or house of correction, there to remain not less than one day, nor more than five days. *Provided nevertheless*, That when any person shall have been convicted of profane cursing or swearing, before any Justice of the Peace, and having appeared before such Justice, and pleaded the general issue, or demurred to the charges in the complaint against him, it shall be lawful for such defendant to appeal, from the sentence of such Justice to the Justices of the next Court of General Sessions of the Peace, to be holden in and for the county wherein the offence was committed, who shall hear and finally determine the same; the appellant claiming such appeal at the time of declaring such sentence by said *Justice*, and then and there recognizing, *with sufficient surety* or sureties, in a reasonable

sum not exceeding twenty dollars, to prosecute his said appeal with effect, and to perform the order of said court therein.

Sec. 2. *And be it further enacted*, That if any person shall profanely curse or swear in the hearing of any sheriff, coroner, constable, grand juror or tythingman, it shall be the duty of such officers, respectively, forthwith to give information thereof to some Justice of the Peace of the county wherein the offence may be committed, in order that the offender may be taken, convicted and punished for the same; which conviction shall be drawn up in the form following:

———ss.

Be it remembered, That on the day of in the year of our Lord A. B. was convicted before me, one of the Justices of the Peace for the county of of swearing one (or more) profane oath (or oaths) or of uttering one (or more) profane curse (or curses) as the case shall be. Given under my hand the day and year aforesaid.

Sec. 3. *Provided always, and it is hereby further enacted*, That no person shall be convicted or troubled for the offence of profane cursing or swearing, unless the prosecution for such offence shall be commenced within twenty days next after the offence shall be committed.

Sec. 4. *And be it further enacted*, That the clerks of the several towns, districts and plantations, in this Commonwealth shall cause this Act to be publicly read at the opening of their respective annual meetings in the month of March or April; and if the clerk of any town, district or plantation, shall neglect so to do, he shall forfeit and pay the sum of ten dollars for each neglect, to be recovered by action of debt in any court proper to try the same, one moiety thereof to the use of the person or persons suing therefor, and the other moiety thereof to the use of this Commonwealth.

Sec. 5. And be it further enacted, That the Secre-

tary shall cause to be transmitted a printed copy of this Act to each of the public teachers of religion within this Commonwealth, to whom it is hereby recommended to read, or cause the same to be publicly read to their several congregations annually, on the day of the public fast.

Sec. 6. *And be it further enacted,* That all laws, heretofore made for preventing profane cursing and swearing, be and hereby are repealed. [*June* 29, 1798.

26. *Riot Act.*

1786 C. 38. An Act to prevent Routs, Riots, and tumultuous Assemblies, and the evil consequences thereof.

WHEREAS, the provision already made by law for the preventing routs, riots and tumultuous assemblies and the evil consequences thereof has been found insufficient :

Sec. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That from and after the publication of this Act, if any persons to the number of twelve, or more, being armed with clubs, or other weapons, or if any number of persons, consisting of thirty or more, shall be unlawfully, routously, riotously or tumultuously assembled, any Justice of the Peace, sheriff or deputy sheriff of the county, or constable of the town, shall, among the rioters, or as near to them as he can safely come, command silence while proclamation is making, and shall openly make proclamation in these or the like words :

COMMONWEALTH OF MASSACHUSETTS.

By virtue of an Act of this Commonwealth, made and passed in the year of our Lord one thousand seven hundred and eighty six, entitled, " An Act for suppressing routs, riots and tumultuous assemblies and the evil consequences thereof," I am directed to charge and command, and I do accordingly charge and command *all persons,* being here assembled, im-

mediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pain inflicted by the said Act.

God save the Commonwealth.

And if such persons assembled as aforesaid, shall not disperse themselves within one hour after proclamation made or attempted to be made, as aforesaid, it shall be lawful for every such officer to command sufficient aid, and he shall seize such persons, who shall be had before a Justice of the Peace; and the aforesaid Justice of the Peace, sheriff or deputy sheriff is hereby further empowered to require the aid of a sufficient number of persons in arms, if any of the persons assembled as aforesaid shall appear armed: And if any such person or persons shall be killed or wounded by reason of his or their resisting the persons endeavouring to disperse or seize them, the said Justice, sheriff, or deputy sheriff, constable and their assistants, shall be indemnified and held guiltless.

Sec. 2. *And be it further enacted*, That if any person being commanded by such Justice, sheriff, deputy sheriff or constable, as aforesaid, shall refuse or neglect to afford the assistance required, and shall be convicted thereof upon the oath of either of the said officers so commanding, or other legal evidence, he shall forfeit and pay a sum not less than forty shillings, nor exceeding ten pounds, to be recovered by indictment or presentment before the Supreme Judicial Court or any Court of General Sessions of the Peace, according to the aggravation of the offence; to be paid into the public treasury for the use of the Commonwealth.

Sec. 3. *And be it further enacted*, That all persons who for the space of one hour after proclamation made or attempted to be made, as aforesaid, shall unlawfully, routously, riotously and tumultuously continue together, or shall wilfully let or hinder any such officer who shall be known or shall openly declare himself to be such, from making the said proclamation, shall forfeit *all their lands*, tenements, goods and chattels to this

Commonwealth, or such part thereof as shall be adjudged by the Justices, before whom such offence shall be tried, to be applied towards the support of the government of this Commonwealth; and shall be whipped thirty nine stripes on the naked back, at the public whipping post, and suffer imprisonment for a term not exceeding twelve months nor less than six months; and once every three months during the said imprisonment receive the same number of stripes on the naked back at the public whipping-post as aforesaid. And if any such person or persons, so riotously assembled, shall demolish or pull down any dwelling house or other house or parcel thereof; any house built for public uses; any barn, mill, malt house, store house, shop or ship, he or they shall suffer the same pains and penalties as are before provided in this Act. *Provided always*, That where there shall appear any circumstances to mitigate or alleviate any of the offences against this Act, in the judgment of the court, before which such offence shall be tried, it shall and may be lawful for the Justices of such court to abate the whole of the punishment of whipping, or such part thereof as they shall judge proper; any thing in this Act to the contrary notwithstanding.

Sec. 4. *And be it further enacted*, That this Act shall be read at the opening of every Court of General Sessions of the Peace, by the clerk of the said court, and at the anniversary meeting of each town within this Commonwealth, by the town clerk thereof in March or April annually: And no person shall be prosecuted for any offence contrary to this Act, unless prosecution be commenced within twelve months after the offence committed. [Oct. 28, 1786.]

27. *Licenses of Tavernkeepers, &c.*

1786 C. 68, Sec. 2. Town or district clerks may administer the oath [see Form 36] to a tavernkeeper, &c. when no justice dwells in the same town.

28. *Licenses of Physicians.*

1817 C. 131, Sec. 2. Any person hereafter licensed

to practice physic and surgery, shall deposit a copy of such license, with the clerk of the town, district, or plantation where he resides; And it shall be the duty of the clerk to file such copy in his office, with a certificate thereon, attested by him, of the day and year when the same was so deposited, for which he shall be entitled to receive of such licentiate who may deposite the same, *fifty cents* and no more. If a physician neglect this duty, he can recover nothing for his services.

SELECTMEN.*

OATH.

1806 C. 26, Sec. 4.] *YOU solemnly swear, that you will faithfully and impartially discharge the duties of your office, respecting all elections, and the returns thereof. So help you God.*

HEADS.

1 Appointments by Selectmen. 2 Choice. 3 Assessors. 4 Overseers of the Poor. 5 Town Meeting. 6 Elections and Voters. 7 Election of Governor and Lieutenant Governor. 8 Election of Counsellors and Senators. 9 Election of Representives to the General Court. 10 Election of Representatives to Congress. 11 Election of County Treasurer. 12 Election of County Register. 13 Jurors. 14 Guardians of Spendthrifts. 15 Orphan Children. 16 Guardians to Idiots, Lunatics, and distracted persons. 17 Constables. 18 Militia. 19 Guideposts. 20 Perambulation of Town lines. 21 Private Ways. 22 Surveyor's Limits. 23 Licenses. 24 Drunkards. 25 Gaming. 26 Fire. 27 Fireworks. 28 Theatrical enter-

* Selectmen may determine where a school house shall stand in case—see School District, head 1.

Selectmen's duty respecting schools—see schools, head 9.

Selectmen's duty in calling school district meetings. See School *Districts, head 2*—see also same, head 1.

tainments. 29 Aqueducts. 30 Common drains and shores. 31 Watercourses. 32 Oysters and other shell fish. 33 Trade and employment. 34 House of Correction. 35 Watches and Wards. 36 Wolves. 37 Contagious sickness. 38 Quarantine law. 39 Hospitals for the Small pox. 40 Cowpox.

1. *Appointments by the Selectmen. (For Selectmen's duty respecting, see their several heads.)*

Auctioneers, Engine men, Inspectors and markers of Lighters, Sealers of Weights and Measures, Weighers of Beef, Weighers of Onions, Measurers of Wood and Bark.

2. *Choice.*

1811 C. 9, Sec. 2. They are chosen by *written ballots* (excpet in Boston.)

3. *Assessors.*

1785 C. 50, Sec. 2. The selectmen are to be assessors when no assessors are chosen, or if so many of them chosen the second time shall refuse to accept as that there shall not be the number the town voted to be assessors; and are to be sworn as such—see Selectmen, head 5th.

4. *Overseers of the Poor.*

1785 C. 75, Sec. 2. The selectmen are to be overseers of the poor when none are chosen.

5. *Town Meeting.*

1785 C. 75, Sec. 2. The annual town meeting for the choice of town officers shall be in the month of March or April.

Sec. 4. When by reason of nonacceptance, death or removal* of any person chosen to office in any town, at any time, or by reason of a person's becoming *non compos*, there is a vacancy, or want of such officers,

* Barre vs. Greenwich. Pickering's Mass. Rep. v. 1, p. 129. In statute 1785 C. 75, Sec. 4, respecting vacancies in town offices, the word *removal* means a removal from the town. Town officers must be *inhabitants of the* town in which they are chosen, *and they cease to be officers* when they cease to be inhabitants.

the town may make a new choice to supply the vacancy; and the person chosen must be sworn and record made as is prescribed under Town Clerk, head 2.

Sec. 5. When there shall be occasion for a town meeting, the constable or constables, or such other persons as shall be appointed for the purpose, by warrant* from the selectmen, or the major part of them, shall summon and notify the inhabitants of such town to assemble at such time and place, in the same town as the selectmen shall order, the *manner* of summoning the inhabitants to be such as the town shall agree upon; and when ten or more *freeholders* of a town shall signify, in *writing*, their desire to have any matter or thing inserted in a warrant for calling a meeting, the selectmen are hereby required to insert the same in the warrant they shall issue for the meeting, or call† a meeting for the express purpose of considering thereof; and in case the selectmen shall unreasonably deny to call a meeting upon any public occasion, any *ten* or more of the freeholders of such town may apply to a Justice of the Peace within and for the same county who is hereby authorized to issue his warrant under his hand and *seal* for calling the said meeting.

The major part of the selectmen surviving or remaining in office may call a town meeting.

1785 C. 50, Sec. 1. When assessors refuse to be sworn the selectmen shall summon a meeting to fill the vacancy and complete the number voted—see head 3.

1783 C. 10, Sec. 1. *Collector.* They may call a town meeting to choose a new collector and appoint some person to settle with the old one, when such collector has removed, or in the judgment of the selectmen, assessors or treasurer is about to remove, or is remiss in his duty. See Assessors, heads 8, 9 and 10.

* Peter Colmen and another vs. Mary Childs. Mass. Rep. vol. 10, p. 105. Seals are not essential to warrants issued by *selectmen for calling* town meetings.

* *See Form 39.* † See Form 37 and 38.

1792 C. 58, Sec. 2. For a town meeting to erect and establish a Hospital, the inhabitants must have eight days notice. (For more duty respecting town meetings see Town Clerk, head 2.)

6. *Elections and Voters.*

1806 C. 26, Sec. 4. Selectmen of towns and districts, and assessors of unincorporated plantations, shall, before entering on the duties of their respective offices, be sworn faithfully and impartially to discharge the duties of their office, respecting all elections and the returns thereof, and a certificate of such oath be recorded in the record of the town, district or plantation accordingly.

Statute passed Feb. 11, 1823, Sect 1. Every male citizen of twenty one years of age and upwards (excepting paupers and persons under guardianship) who shall have resided within the Commonwealth one year, and within the town or district in which he may claim a right to vote six calender months next preceding any election of any town, district, county or state officers, or representative to congress, and who shall have paid by himself, or his parent, master or guardian any state or county tax which shall within two years next preceding such election, have been assessed upon him in any town or district within this Commonwealth, and also every citizen who shall be by law exempted from taxation, and who shall in all other respects, be qualified as above mentioned shall have a right to vote in such elections.

Sec. 3. Persons qualified as above have a right to vote in meetings for the transaction of *town affairs*, if they have resided in the town six calender months preceding the meeting; and no other persons are voters in *town affairs.*

Sec. 2. Collectors are to make out a correct list [see Form 131] of all the persons, who have paid a state or county tax as above, and deliver it to the selectmen fifteen days before the first Monday of March *annually. See Collector,* head 13.

The selectmen shall at least ten days before the firs Monday of March, *annually*, make out *alphabetica* lists [see Form 41] of all the persons qualified to vot as aforesaid; and shall ten days at least before th first Monday of March, *annually*, cause such lists to b posted up at two or more public places in their respec tive towns or districts: And they shall be in session for a reasonable length of time, within forty-eigh hours next preceding all town and district meetings for the choice of any of the officers aforesaid, for th purpose of correcting the aforesaid list of voters, an such session shall be holden, for one hour at least, o the day of such meeting and before the opening of th same; and of the time and place of their meeting fo this purpose, they shall give notice [see Form 41] o the lists posted up as aforesaid.

And it shall be the duty of the selectmen or mode rator, to be provided with a complete list as aforesaid at such election, and no person shall vote at any elec tion whose name shall not have been previously place on said list, nor until the selectmen or moderator pre siding at such meeting, shall have opportunity to fin his name on the lists aforesaid.

Sec. 4. In case the selectmen shall have duly en tered on the list of voters the names of all such per sons, as are returned to them by the collector, as hav ing paid any state or county tax within two year shall not be held answerable for any omissions on sai list, or for refusing the vote of any person whose nam is not on the list, unless the said person whose nam may be omitted, shall, before offering his vote, fur nish the selectmen with sufficient evidence of his hav ing the legal qualifications of a voter at said meeting and request of the selectmen, the insertion of his nam on the list of voters.

1804 C. 117, Sec. 2. In towns where the voter exceed *one thousand* the selectmen shall be in sessio on the day immediately preceding such meeting—when this shall happen on Sunday, they shall be i

session on the Saturday immediately preceding such meeting.

7. *Elections of Governor and Lieutenant Governor. (See Town Clerk, head 3.)*

NOTE.—*The statutes following under this head extend as follows, viz:*

1795 C. 55, Sec. 2. *Extends to Governor, Lieutenant Governor, Counsellors and Senators.*

1795 C. 55, Sec. 3. *Extends to Governor, Lieutenant Governor, Counsellors and Senators, Electors of President of the United States, Representatives in Congress, and Representatives in the Legislature.*

1798 C. 31, Sec. 3, *same as* 1795 C. 55, Sec. 3. *And to Electors of* Vice *President.*

1800 C. 74, Sec. 3, *extends to all as in* 1795 C. 55, Sec. 2, *except Electors of President.*

1811 C. 9, Sec. 3, *extends to* all elections.

1813 C. 68, Sec. 4, *extends to Governor, Lieutenant Governor, Senators and Counsellors, Representatives to the General Court and Representatives in Congress and to* town officers.

Sec. 3, *the same.*

1813 C. 195, *the same.*

Constitution C. 2, Sec. 1, Art. 3. The meeting for the choice of these officers is to be holden on the first Monday of *April* annually, and electors are to give in their votes to the selectmen, who are to preside at such meetings.

1795 C. 55, Sec. 2. The selectmen are to call the meetings and to preside,* or to forfeit not less than *forty* nor more than *eighty dollars* each.

* Lincoln v. Hapgood and others. Mass. Rep. vol. 11, p. 350. An action lies against selectmen for refusing to receive the vote of a qualified elector although not chargeable with malice.

A person having his permanent home in one town, and being qualified to vote in such town at the election of public officers, is not disqualified by a temporary absence in another town and being there admitted to vote.

Sec. 3. They have all the powers vested in a Moderator and it is their duty to prevent illegal voting.

Sec. 4. If any person shall give in more than one vote he shall forfeit not less than *ten* nor more than *twenty dollars;* and for disorderly behaviour the same, to be recovered by action of debt, or by indictment, the whole to the use of the Commonwealth. Selectmen neglecting their duty in this act provided, forfeit not less than *forty* nor more than *eighty dollars.*

1798 C. 31, Sec. 3. Selectmen are not to receive any vote unless delivered *personally* in *writing* by the voter, under a penalty of a sum not exceeding *one hundred dollars*, one half to the prosecutor and one half to the Commonwealth, to be recovered by action of debt or indictment.

1800 C. 74, Sec. 3. If any person shall knowingly and designedly give in more than one vote or list, he shall forfeit and pay a fine of not exceeding *thirty dollars*, in addition to the above fine of not less than *ten* nor more than *twenty dollars.*

Sec. 4. No person shall be permitted to give in his vote until the selectmen shall have an opportunity to inquire his name, [see head 6.] and if he wilfully votes contrary to the provisions of this Act, or gives false answers he shall pay a fine of not exceeding *twenty dollars* for each offence. See 1813 C. 68.

Sec. 5. Selectmen not complying (knowingly and corruptly) with the requisitions of this act, forfeit not exceeding *fifty dollars*, each for each offence.

Sec. 6. Penalties in this act, go one half to the Commonwealth and the other half to the prosecutor, recovered by indictment, or action of debt.

1811 C. 9, Sec. 3. If the selectmen, or moderator presiding at any town meeting, without the consent of the voter, read or examine, or permit any other person to read or examine the name or names written on his ballot or ticket, with a view to ascertain the name of the candidate voted for, before the poll is *closed, they shall* pay to the use of such town, *twenty*

dollars, to be recovered by indictment in any court proper to try the same.

1813 C. 68, Sec. 4. No person shall be permitted to give in his vote or ballot, until the person presiding shall have ascertained that the same is in the list, and shall have had time to check the same; and any person wilfully voting contrary to the provisions of this Act, or who shall give any false name or answer to the person presiding, shall forfeit and pay a fine of not exceeding *thirty dollars*, for every offence.

Sec. 3. If any person, knowing himself to be not legally qualified to vote, shall wilfully give in or attempt to give in, a vote or ballot, at any election, he shall forfeit and pay a fine therefor, not exceeding *fifty dollars*; and any person who shall wilfully aid or abet any person voting or attempting to vote, contrary to the provisions of this Act, shall forfeit and pay a fine not exceeding *thirty dollars* for every offence.

Sec. 5. The aforesaid penalties to be recovered by indictment in any court proper to try the same, one half to the Commonwealth and the other half to the prosecutor. Selectmen who neglect or refuse to perform their duty prescribed in the Act of 1813 C. 68, forfeit, not exceeding two hundred dollars as aforesaid, to be recovered as aforesaid.

NOTE. The above Sec. 3, and Sec. 4, relate to *town officers* as well as others.

1813 C. 195. If they shall knowingly receive the vote of any person in the military service of the United States, and who is not qualified agreeably to the constitution and laws of this Commonwealth, the person so presiding and receiving any vote as aforesaid, shall forfeit and pay *one hundred dollars* to be recovered by information to be filed and prosecuted by the attorney general or the solicitor general of the Supreme Judicial Court, or by indictment in said Court.

8. *Election of Counsellors and Senators.*

Constitution *C. 1, Sec. 2.* Art. 2. There shall be *a meeting on the first* Monday of *April*, annually, for-

ever of the inhabitants of each town in the several counties; to be called by the selectmen, and warned in due course of law, at least seven days before the said first Monday in *April*, for the purpose of electing Counsellors and Senators.

The selectmen are to preside at such meeting, and shall receive sort and count the votes in open town meeting, in presence of the town clerk.

1800 C. 74, Sec. 2. The selectmen are directed to call on the voters to bring in their votes on one list, for as many persons as are to be voted for, for Counsellors and Senators.

NOTE. *For the further duty of selectmen, and regulations respecting voters see head 7, preceding—and for qualifications of voters see head 6.. For the returns see town clerk, head 4.*

9. *Election of Representatives to the General Court.**

Constitution C. 1, Sec. 3, Art. 2. Every corporate town containing one hundred and fifty ratable polls, may elect one Representative: every corporate town, containing three hundred and seventy-five ratable polls, may elect two Representatives; every corporate town containing six hundred ratable polls, may elect three Representatives; and proceeding in that manner, making two hundred and twent-five ratable polls the mean increasing number for every additional Representative.

Provided nevertheless, that each town now incorporated (1780) not having one hundred and fifty ratable polls, may elect one Representative, but no town shall hereafter be incorporated with that privilege unless it contains one hundred and fifty ratable polls.

The House of Representatives shall have power from time to time to impose fines upon such towns as neglect to choose and return members to the same, agreeably to the Constitution.

*1813 C. 68. On a question whether a town will send a Representative, and on all questions involving the number such town will send the qualifications of voters is the same as for the choice of *Representatives.*

*For the number each town is entitled to send, see Form 160

Art 3. Every member of the House of Representatives shall be chosen by *written* votes; and for one year at least next preceding his election, shall have been an inhabitant of, and have been seized in his own right of a freehold of the value of *one hundred pounds*, within the town he shall be chosen to represent, or any ratable estate to the value of *two hundred pounds;* and he shall cease to represent the said town immediately, on his ceasing to be qualified as aforesaid.

Art. 5. They shall be chosen *annually* in the month of *May*, ten days at least before the last Wednesday of that month.

Art. 10. The House of Representatives shall be the judge of the returns, election, and qualifications of its own members, as pointed out in the Constitution.

No member shall be arrested, or held to bail on mesne process, during his going unto, returning from, or his attending the General Assembly.

1795 C. 55, Sec. 1. The selectmen are to call the meeting* in the manner established for calling other town meetings, and to preside, and openly receive, sort and count the *written* votes given in, and forthwith publicly declare who is, or are, elected; and shall cause the election to be recorded in the town records [see town clerk, head 5.] and shall cause the person or persons so elected to be notified [Warrant, see Form 44—45.] by the constable or other person specially authorized for that purpose, within *three* days afterwards; And the selectmen shall sign a certificate and return [see Form 49.] of such election, and cause the same to be delivered into the office of the secretary of the Commonwealth, on or before the last Wednesday of the same May; or such election shall be certified to the House of Representatives to their acceptance.

If the selectmen shall neglect to notify a meeting to choose a Representative, or neglect their duty when

* Craigie vs. Mellen and others.

Mass. Reports, v. 6, page 7. A meeting of a town for the choice of Representatives, and for the transaction of ordinary business may be *called by one warrant*

one is called, they forfeit not less than *forty*, nor more than *eighty dollars*, to the use of the Commonwealth, to be recovered by indictment or action of debt.

1798 C, 31, Sec. 1. It is not lawful for the selectmen to appoint this meeting, on any day which by law the militia of this Commonwealth are specially required to do military duty, *(first Tuesday in May)* and if they offend in this, they forfeit not exceeding *one hundred dollars*, half to the Commonwealth and half to the prosecutor.

1812 C. 135, Sec. 1. Towns which choose and return a Representative when not constitutionally entitled to send one, or towns which send more than their constitutional number, forfeit not less than *one hundred dollars*, nor more than *three thousand dollars*, for each Representative so elected; half to the Commonwealth and half to the prosecutor.

NOTE. For further duty of the selectmen in presiding at the meeting and rejecting voters, see selectmen, head 7.

10. *Election of Representatives to Congress, see town clerk, head 6.

11. Election of County Treasurer, see town clerk head 7—and see Form 39.

12. Elections of County Register, see town clerk, head 8.

13. *Jurors.*

1812 C. 141, Sec. 2. The selectmen shall provide and cause to be kept one jury box, and shall once at least in every *three* years prepare a list [see Form 50.] of such persons under the age of *seventy* years, as they shall judge to be well qualified to serve as jurors, being persons of *good moral character*, and qualified to vote for Representatives, excepting the Governor, Lt. Governor, Counsellors, Judges, and clerks of the common law courts, Secretary and Treas-

*Form of Warrant 46,—Certificate 48.

*1801 C. 16. A jury for the trial of a Nuisance is drawn from three towns, at a meeting of the selectmen to be held forthwith.

urer of the Commonwealth, loan officers, and revenue officers, Judges and Registers of Probate, Register of Deeds, settled ministers of the gospel, officers of any college, preceptors of incorporated academies, physicians and surgeons regularly authorized, cashiers of incorporated banks, sheriffs and their deputies, marshals and their deputies, counsellors and attorneys at law, Justices of the Court of Sessions, criers of the Judicial Courts, constables and constant ferrymen; and have written their names upon tickets, they shall cause them to be placed in a box to be called the jury box, and shall then lay their doings before the town for a revision, who may confirm the same, or make such alteration in the same as they may think proper.

And each person drawn out, shall be liable to serve once in every *three* years, and not oftener.

Sec. 3. The number to be kept in the jury box to be at least *one* for every sixty persons said town [see Form 160.] contains, computing by the last census, next before preparing the box.

1807 C. 140, Sec. 5. When any town shall be duly assembled, for the purpose of drawing jurors, the town clerk, or in his absence one of the selectmen shall carry the box into the meeting, which box shall be unlocked, in the meeting, and the tickets mixed by the major part of the selectmen, who are present; and one of the selectmen shall draw out as many tickets, as there shall be jurors required by the venire. The persons thus drawn out, shall be returned to serve as jurors unless from sickness, absence beyond sea, without the limits or in different parts of the Commonwealth, they shall be considered by the town as unable to attend the court for which they had been drafted, or had served on a jury* within three years from that day. In either of these cases, or in case of a coroner's being drawn, at the time when the duties of a sheriff shall be

*Mass. Reports, v. 16, p. 220. Exparte *Swan*—One having served as juror *in the courts of* the United States, is not liable to *be returned as a juror in the courts* of this state.

Enginemen are excused, see Enginemen.

devolved on him, the person's name being returned into the box, others shall be drawn in their stead: But any person being thus excused, or who shall be returned, and shall not appear at court, or appearing shall be there excused, shall not be considered as serving or be excused on another draft, should it happen within the term of *three* years, the minute on his ticket notwithstanding.

Sec. 6. Selectmen who shall draw any ticket from the box, and the person shall not be excused from serving as aforesaid, shall endorse thereon the date of the draft, and then return the same into the box; and whenever there shall be a renewal or exchange of any of the tickets, for others of the same person they shall transfer from the back of the old tickets, to the new ones, the minutes of such drafts as had been made within the three preceding years.

Sec. 2. If any person whose name shall be in the box, shall be convicted of any scandalous crime, or be guilty of any gross immorality, his name shall be withdrawn from the box by the selectmen.

NOTE. For penalties for neglect of duty, or in case of fraud, see statute of 1807 C. 140, Sec. 17.

FEES. *One dollar and twenty-five cents* a day for attendance, and *six cents a mile* for the travel *out* and *home*, to be paid out of the county treasury.

For further duty of selectmen respecting jurors, see Constable, head 4.

14. *Guardians to Spendthrifts** (*see overseers of the poor, head* 20.)

1783 C. 38, Sec. 7. When any person by exces-

* Boyden, Appellant vs. Boyden.

Mass. Reports, v. 5, page 427. Guardians of spendthrifts have no control of the persons of their wards: They cannot restrain them of their liberty, nor bind them in service.

Likewise Brown vs. Chase.

Mass. Reports, vol. 4, page 436. An action will not lie against the Guardian of a spendthrift, upon a contract made by his ward but the action must be brought against the ward, who *may defend by his* Guardian.

sive drinking, gaming, idleness or debauchery of any kind, shall so spend, waste or lessen their estate, as thereby to expose themselves or family to want, or in the judgment of the selectmen, endanger or expose the town to a charge or expence for the maintenance of themselves or family, or any of them, the said selectmen or a major part of them shall, in such case, lodge a complaint [see Form 51.] with the Judge of Probate in the county where he belongs; and if it shall appear to the said Judge of Probate, that the person complained of comes within the description of this act, and has had due notice of the complaint exhibited against him or her, then the Judge of Probate shall appoint the said selectmen or a major part of them, or some suitable and discreet person or persons as guardian or guardians. And no sale or bargain of any real or personal estate made by such person, after the appointment of guardianship, shall be held valid in law.

1818 C. 60. When selectment make application to the Judge as aforesaid, and he shall, by his decree, order notice to the person complained against, the complainants may file a copy of their said complaint, with the order of the Judge of Probate thereon, in the office of the register of deeds for the same county. And in case a guardian shall be appointed, all and every gift, bargain, sale or transfer, of any estate, made by such person, after filing of the copy and order aforesaid, with the register of deeds, shall be void and of no effect. [See Drunkards, head 24.]

15. *Orphan Children.*

1794 C. 64. Orphan children may bind themselves out, with the approbation of the selectmen, who shall endorse their approbation [see Form 52.] on the deed, after examination of the terms. And they may enquire into their usage, and defend them from cruelties and breaches of covenant, and may complain [see Form 99, under overseers of the poor—but must in this case be signed by *the selectmen.*] to the Court of Common *Pleas against the master* or mistress.

N. B. There must be two deeds of the same form, executed by both parties.

16. *Guardians to Idiots, Lunatics, or Distracted persons.**

1783 C. 38, Sec. 2. The selectmen are to make inquisition respecting any idiot, lunatic or distracted person, when directed by the Judge of Probate, and if in their opinion such idiot, lunatic or distracted person, shall be incapable of taking care of him or herself, they, or the major part of them shall certify [see Form 53.] the same to the Judge. [See overseers of the poor, head 19.]

17. *Constable, (see assessors, head* 8, *and* 9.)

1785 C. 75, Sec. 3. Two may give a certificate of the choice of constable. [See town clerk, head 16, and Form 28.]

18. *Militia, (see overseers of the poor, head* 21.)

1809 C. 108, Sec. 9. When the commanding officer of a company shall lay a certificate from the overseers of the poor before the selectmen that a private is unable to equip himself, the selectmen shall provide arms and equipments for every such private, and shall deposit the same in some convenient place, and permit the commanding officer to deliver such arms and equipments, to such private, whenever his company shall be ordered out for any military duty.

And the said commanding officer shall be responsible for the safe return of such arms and equipments to the place of deposit. See Sec. 23, of this Act.

Sec. 22. Every town and district shall provide and deposit, and constantly keep in some suitable and convenient place within said town or district, *one hundred pounds* of musket balls, each of the eighteenth part of a pound; *one hundred twenty-eight flints*, suitable for

* Perrin vs. Leverett. Mass. Reports, v. 13, page 129. The appointment of a guardian over one as non compas is not warranted by evidence that the person is old, and has become less *careful of his property*.

muskets; *three* copper, iron or tin campkettles, for every sixty-four soldiers enrolled within said town or district; and the same proportion of the aforesaid articles for a greater or less number enrolled. Towns neglecting to be provided with the above articles, forfeit not less than *twenty*, nor more than *five hundred dollars*, to the use of the Commonwealth, to be recovered by indictment or information in any court of competent jurisdiction.

1821 C. 92, Sec. 7. On proclamation of the commander in chief, it is the duty of towns and districts, to be provided with one pound of good gunpowder for every soldier enrolled within said town or district, or forfeit as in the preceding act of 1809 C. 108, Sec. 22.

1809 C. 108, Sec. 23. The selectmen shall supply at the expense of the town or district, the commanding officer of each company with *one quarter* of a *pound* of good *gunpowder*, made into blank cartridges, for each non-commissioned officer or private borne on the company roll of such commanding officer, whenever such officer's company is ordered to parade for review, provided such commanding officer makes a written application therefor, stating therein the number of men to be supplied. Selectmen neglecting their duty in this section or in section nine, forfeit not exceeding *fifty dollars* to the use of the Commonwealth, to be recovered by indictment in S. J. Court, or C. C. Pleas. [See statute of 1812 C. 126.]

1821 C. 92, Sec. 8. Return. The selectmen must, in the month of August *annually*, make out a schedule [see Form 54.] of all the military stores with which their towns or districts are supplied, and deliver the same to the colonel or commanding officer of the regiment in which such town or district is situated.

1809 C. 108, Sec. 24. Whenever the militia are ordered to march for the service of the state, the selectmen shall cause carriages to attend them with further supplies of provisions, camp equipage, and camp *utensils, until the* commanding officers of the detach-

ment notify them to desist, and such officer shall be accountable for such camp equipage and camp utensils, unless injured or lost by some means out of his power to prevent. And the selectmen shall present their account for supplies, to the General Court for allowance. For neglect of duty in this section, towns forfeit not less than *two hundred* nor more than *five hundred dollars*, half to the Commonwealth and half to the prosecutor.

1821 C. 92, Sec. 2. The uniform of the militia, (except that portion thereof, whose uniforms are regulated by the laws of the U. States,) shall be such as His Excellency the Commander in Chief shall prescribe, and be subject to such restrictions, limitations and alterations as he may order.

Law passed February 11, 1823, Sec. 7. The selectmen of the several towns, and the mayor and aldermen of the city of Boston, are hereby required to appropriate the money which has been, or hereafter shall be paid by the conditional exempts into the town or city treasury, for the purchase of such articles of uniform and military equipments as now are or shall be required by the Commander in Chief, to be provided in conformity with the act of 1821 C. 92, Sec. 2, as before inserted, to the use of the several companies in such town or city, in proportion to the number of *active privates* who shall be borne on their respective rolls on the first Tuesday of May in each year; If any board of selectmen or mayor and aldermen neglect or refuse to comply with the provisions of this Act, they forfeit *fifty dollars* to the use of the company to which the person prosecuting belongs, to be recovered in an action on the case, to be appropriated to the purchase of such articles as the exempt fund is applied to.

19. *Guideposts.*

1794 C. 63. The selectmen of towns and districts, and the assessors of plantations assessed in any public *tax, are from* time to time to fix and determine upon *such places at the* corners and angles of all roads at

which guideposts, shall be erected and kept, as in their judgment shall be found necessary and convenient, and shall cause a fair record thereof to be entered and kept among the records of said town, district or plantation.

The posts to be *eight feet* in height, and a board or boards placed on the upper end on which must be painted the name of the next town with such other noted place as may be expedient, to which each of the roads may lead, with the distance in miles to the same; and the figure of a hand with the forefinger pointing to the place.

Inhabitants of towns, districts and plantations, may annually agree upon a suitable substitute in the room of guideposts, and appoint any proper person to erect the same.

If the inhabitants of towns, districts or plantations neglect or refuse to erect and maintain guideposts in such places, and in such a manner as is herein provided, they shall pay *twenty shillings* per *month* to the use of the Commonwealth; and if selectmen or assessors as aforesaid shall refuse or neglect to fix and determine upon the places, at which the said guideposts shall be erected and kept shall forfeit the same as above—in both cases to be recovered by indictment of the grand jury in the same county.

NOTE. If any person shall injure, [see Form 55] mar or deface any guide post, or its substitute agreed upon as aforesaid, or board which shall be set up as in this act provided, and shall be convicted thereof before any Justice of the Peace, *within the Commonwealth*, shall forfeit not less than *twenty* nor more than *forty shillings*, with costs, half to the complainant and half to the town where the offence was committed.

20. *Perambulation of Town lines.*

1785 C. 75, Sec. 1. The lines between towns shall be run, and the marks renewed within three years from the last day of March 1786, and once every

five years forever afterwards by two or more of the selectmen of each town, or such other persons as they shall in *writing* [see Form 57 and 58] appoint to run and renew the same, and their proceedings [see Form 59] after such renewal of boundaries shall be recorded in their respective town books:—The selectmen of the most ancient town to give notice [see Form 56] in *writing* to the selectmen of the adjoining town of the time and place of meeting for such perambulation, *ten days* beforehand. Selectmen neglecting to comply with the provisions of this act forfeit *five pounds* each, two thirds to the use of the town which shall comply with their duty, and one third to any two or more of the selectmen in the town so complying. Penalty may be sued for in the Court of Common Pleas by said selectmen.

21. *Private Ways.**

1786 C. 67, Sec 1. The selectmen are authorized and empowered, either personally, or by such other person or persons as they shall appoint, to lay out within their respective towns, particular and private ways, for the use of such town only, or for the use of one or more individuals thereof, or proprietors therein, and if any person or persons who are owners of the land through which such private road shall be laid out, be injured thereby, he or they shall receive such recompence as the party interested and the selectmen shall agree† upon, to be paid by the town, or the individual person or persons for whose use the road is laid out, or as shall be ordered by the Justices of the Court of General Sessions of the Peace, upon an enquiry into the

* Way laid out see Form 61.

† Craigie vs. Mellen and al. Mass. Rep. vol. 6, p. 7. When the selectmen locate a town way, they are not to *estimate* the damages sustained by the owner over which the way passes, but if they cannot *agree* with the owner he must make application. A way laid out by the selectmen from one part to another of a county road, may yet be a town way for the convenience of the *inhabitants, and properly* laid out by the selectmen.

same by a jury to be summoned for that purpose, or by a special committee, if the parties agree thereto. *Provided nevertheless*, That no private way laid out by the selectmen or their order, as aforesaid, shall be established as such, until the same has been reported to the town at a town meeting, and by them approved* and allowed.

Sec. 2. If the selectmen shall unreasonably delay, or refuse to lay out, or cause to be laid out, any such private way, as before described, being thereto requested in *writing*, [see Form 60] by one or more of the inhabitants or proprietors of land in such town, then the Court of General Sessions of the Peace [see Form 62] for the same county, at any session, within one year, if the request appear to them reasonable, may cause the same private way to be laid out at the costs of the persons applying by a committee of *three*, who shall estimate the damages (if any) as well as ascertain the place and course of the way: The damages to be paid by the town, if it be of general benefit, otherwise by the individual or individuals for whose use and benefit the way is laid out.

Sec. 3. When any town shall unreasonably delay, or refuse to approve and allow of any private way laid out by the selectmen, or their order and put the same on record, any person or persons aggrieved may apply [see Form 63] to the Court of General Sessions of the Peace for the same county, within *twelve months* after such refusal or delay; and the court, after hearing the town thereon, may accept and approve of the said way and order the same to be recorded in the town book, or they may order the way to be laid out by a committee of three disinterested freeholders, who shall be under similar obligations and directions as to locating and estimating the damages occasionedt hereby as is

* Craigie vs. Mellen and al. Mass. Rep. vol. 6, p. 7. When a town way has been laid out by the selectmen and approved by the town, it is *immediately* a way, although the party aggrieved by *the location has a year to apply* to the Court for its discontinuance.

prescribed for a committee of five, in locating a county highway.

*Discontinuance.** 1786 C. 67, Sec. 2. The justices of the Court of General Sessions of the Peace, upon application [see Form 64] to them made by any party aggrieved at the continuance of any private way, may order and direct a discontinuance thereof, after notifying and hearing the parties interested therein, if they shall thereupon adjudge such discontinuance reasonable.

1785 C. 75, Sec. 7. Towns may alter or discontinue any private way heretofore laid out and improved as such, when it shall appear that the same is unnecessary for the inhabitants of such town. *Saving always*, to any person aggrieved or who thinks himself injured, liberty of applying [see Form 65] for remedy to the Court of General Sessions of the Peace, in the same county, who are hereby empowered and directed to inquire into and determine the matter by a jury, thereunto appointed, as well with respect to the necessity and convenience by such discontinuance, laying out or alteration, as to the damage that may happen or accrue to any particular person or persons thereby; and thereupon to assess damages for the party injured, to be paid by such town; unless it appears, that the person on whose behalf application has been made, had no just cause of complaint, in which case the complainant shall pay all such costs and charges as may arise by such application. And the verdict of a jury being received and recorded, shall be final and conclusive. *Provided*, such application be made to the court within *twelve months* after such way is approved, altered or discontinued as aforesaid, and not otherwise. [Form of application for a county road see Form 66.]

* Craigie vs. Mellen and al. Mass. Rep. vol. 6, p. 14. A town may entertain an application for the discontinuance of a road found to be inconvenient; and whenever a majority of the inhabitants see fit, may discontinue it, a right of control being placed in the Court of Sessions, upon application of any person aggrieved by such discontinuance.

22. *Surveyors Limits.**

1796 C. 58, Sec. 4. Selectmen of towns and districts and assessors of plantations, shall assign [see Form 67] to the several surveyors of highways their divisions and limits for making and repairing the highways, before the first day of *May annually.* Further duty, in case—see Surveyors of Highways, head 6.

23. *Licenses.*

1786 C. 68, Sec. 2. All licenses shall be yearly renewed, and the clerk of the peace in the respective counties, from time to time, *annually* before the granting licenses, shall transmit to the selectmen of every town and district a list of the names of the persons in such town or district that were licensed the year before; and licenses shall not be renewed to any person borne on such list, unless the selectmen shall have considered the same, and made return thereof to the clerk of the peace, certifying thereon as follows: [see Form 68] And no person shall have his license renewed unless his name be inserted in such certificate, or in another of the same tenor.

No person shall be firstly or *originally* licensed, other than such as produce a certificate from the selectmen of the same town or district recommending them as follows: [see Form 69] And the selectmen must certify to the Court of General Sessions of the Peace, *annually,* at the beginning of their term for granting license, what number of innholders and retailers, in their respective towns, they judge to be necessary for the public good.

Sec. 13. The time for granting licenses, as aforesaid, shall be at the first court of sessions, that shall be held *in course* in the several counties on or next after the last Tuesday of June annually; unless the person

* Callender vs. Marsh. Pickering's Mass. Rep. vol. 1, p. 418. The statute 1786 C. 81, Sec. 2, as to the selectmen's assigning limits to the surveyors respectively, is only directory; but if no assignment is made, *perhaps the* surveyors must act together, or by *the voice of the major part of the* whole.

was unavoidably prevented from making application, in which case the justices may grant him license at another term, he paying *six shillings* over the usual fees and duties.

Sec. 14. If a licensed person die, his widow or other representative may be licensed for the remainder of the year at any term, if *recommended* in manner as the law directs.

1807 C. 127, Sec. 1. The Court of Sessions may grant license on application, when the selectmen refuse to approbate or return the certificate: *Provided*, that the person applying shall prove to the satisfaction of the court that the selectmen have unreasonably neglected or refused to give their certificate or approbation, and that the public good requires the renewal, or originally granting the license prayed for: *Provided also*, it shall be the duty of such person, to inform the selectmen or one of them refusing as aforesaid, that the said selectmen may, if they see fit, appear and shew cause why such person should not be licensed.

Sec. 2. Any person whose license may have been prevented by the unreasonable neglect or refusal of the selectmen, at the usual term of granting licenses, and being proved to the court, they may grant license to such person at any other term.

1819 C. 37, Sec. 2. No person shall be approved by the selectmen of any town as fit to be licensed for either of the employments of innholder, tavern keeper, retailer, confectioner, or keeper of any boarding house, or livery stable: *Provided* the President or other officer, specially authorized for that purpose, of any of the colleges, shall certify or make known to such selectmen, that such person applying, shall have within the year last past given credit to any under graduate of said college, contrary to the orders of the officers or rules of such college.

1819 C. 131, Sec. 1. Duty on licenses *four* dollars to the use of the Commonwealth in addition to the *fees now paid by* law. See Drunkards, head 24.

24. *Drunkards.*

1786 C. 68, Sec. 16. The selectmen shall cause to be posted up [see Form 70] in the houses and shops of all taverns, innholders and retailers, a list of the names of all persons reputed common drunkards, common tipplers, or common gamesters, misspending their time and estate in such houses. And every keeper of such house or shop after notice given him as aforesaid, that shall be convicted before one or more Justices of the Peace, of entertaining or suffering any of the persons in such list to drink or tipple, or game, in his or her house, or any of the dependencies thereof, or of selling them spirituous liquors as aforesaid shall forfeit and pay *thirty shillings.*

Sec. 17. Whenever any person shall, by idleness, or excessive drinking, of spirituous liquors, so misspend, waste or lessen his or her estate as thereby either to expose themselves or family to indigent circumstances, or the town to which they belong to a charge or expense for the maintenance or support of themselves or family, or shall so indulge themselves in the use of spirituous liquors, as thereby greatly to injure their health, or endanger the loss thereof, the selectmen shall, in writing under their hands, forbid all licensed persons in their towns and districts, to sell to any of the afore-described misspenders of time and estate, any spirituous or strong liquors for the space of one year; and shall, in like manner, forbid the licensed persons of any other town or district to which such misspender may resort for the same.

If any of the aforementioned misspenders do not reform within the year, the selectmen shall renew the prohibition. And if any person licensed shall sell, during the prohibition, to any person contained therein, any spirituous liquors he shall forfeit *twenty shillings*, to the use of the town or district, where such misspender lives; to be recovered by the treasurer of such town or district. See Spendthrifts.

1818 C. 65, Sec. 1. Whenever the selectmen shall *have posted up, in their* town, the names of any

common drunkards, common tipplers, or common gamesters, or whenever they shall have forbid licensed persons from selling, &c. it shall not be lawful for any person to purchase or procure for and in behalf of such prohibited person, or for his use, any spirituous or strong liquors; and if any person or persons shall purchase, procure or sell, or shall cause to be purchased, procured or sold any spirituous or strong liquors to, or for the use of any such prohibited person, he shall forfeit and pay *ten dollars*, half to the complainant, and half to the use of the poor of the town, to be recovered by complaint to any Justice of the Peace in the same county.

Sec. 2. Any taverner, innholder, victualler, or retailer who shall suffer any minor, tippler, common drunkard or gambler, to remain in his or her house, store or any other apartment, or shall furnish them with strong liquors of any kind, and shall thereof be convicted, shall forfeit and pay *ten dollars* for every offence, to be recovered as in the preceding section; and shall also forfeit his or her license, not to be renewed again for *three years.*

25. *Gaming.*

1798 C. 20, Sec. 1. If any licensed tavern keeper, innholder, victualler, or retailer of spirituous liquors, shall keep, or suffer to be kept, in any house, building, yard, garden, or other appendages, annexed, owned, occupied or improved, any table for the purpose of playing at billiards, or shall suffer or wittingly and willingly allow any person to play therein at billiards, cards, dice, or any other unlawful game, upon conviction thereof on an indictment of the grand jury before the Court of Sessions or the Supreme Court, shall for each and every offence pay *fifty dollars* to the use of the town where the offence was committed, and shall be deprived of his license for the remainder of the year, not to be renewed for *three years.*

Sec. 2. Any person *not licensed* as aforesaid, who *shall keep* any tables as aforesaid, for the purpose of

playing, for hire, gain or reward, or shall for hire gain or reward, suffer persons to resort to and play as aforesaid, shall pay *fifty dollars* to the use of the town, as above, and shall recognize with sufficient surety or sureties in a reasonable sum for his good behaviour, and particularly that he will not be guilty of a breach of this Act for the space of *three years.*

Sec. 3. If any person shall play at *billiards* kept or made use of for the purpose aforesaid, he shall pay *six dollars* to the use of the prosecutor, to be recovered by action or complaint before any Justice of the Peace in the same county.

Sec. 3. It shall be the duty of all selectmen, sheriffs, deputy sheriffs, constables, tythingmen and grand jurors, to complain of any breaches of this Act.

26. *Fire.*

1796 C. 88, Sec. 2. Where no firewards are appointed the selectmen may direct the pulling down or demolishing of any house or building, to stop the further spreading of fire, and may assign places to keep the goods; and also to appoint the stations and operation of the engines. For further duty of selectmen, see Firewards and Aqueducts, head 29.

27. *Fire works.*

1805 C. 55. Selectmen may give license to sell, set fire to or throw lighted crackers, squibs, rockets or serpents. Persons doing this without license, *or offering* crackers for sale, forfeit, for every offence *five dollars*, half to the town and half to the prosecutor, to be recovered by action of debt, or by information before a Justice of the Peace for the same county.

28. *Theatrical entertainments.*

1805 C. 98, Sec. 1. If any person shall erect or build any house or building, for the purpose of having it used for acting or carrying on any stage play, interlude, or other theatrical entertainment, without the *license* of the *Court of Sessions*, on the approbation of *the selectmen of the town in which the same be intended*,

he shall forfeit not exceeding *two thousand dollars*, to be recovered by indictment before the Supreme Judicial Court holden within the county, to the use of the Commonwealth.

Sec. 2. If any person, shall, for profit, gain, or other valuable consideration let to hire any building, suffer any building in his possession, to be used for acting or carrying on for profit, gain, or other valuable consideration any of the plays, &c. above named, without *license* obtained as above, he shall forfeit not exceeding *five hundred dollars* for *each* time the building is so used—to be recovered and fees to the same use as above.

Sec. 3. If any person shall *act* or assist in acting or carrying on any of the plays above, without *license* as above, he forfeits not exceeding *four hundred dollars*, —recovered, and to the use as above.

Sec. 4. Such *licenses* shall continue in force *one year* and no longer, but may be renewed by the Court on *approbation* of the selectmen.

29. *Aqueducts.*

1798 C. 59, Sec. 7. The selectmen may authorize proprietors of aqueducts to dig up streets, highways, &c. See proprietors of aqueducts, sec. 7.

Towns may draw water from aqueducts, gratis, for extinguishing fire. See proprietors of aqueducts, sec. 11.

30. *Common Drains and Common Shores.*

1796 C. 47, Sec. 1. If any person shall dig or break up the ground in any highway, street or lane, in any town, for the laying, altering or repairing or amending of any drain or common shore without the consent of the selectmen of the town signified, in writing, under the hand of the town clerk, he forfeits *four dollars* for each offence to the use of the poor of the town, in an action of debt by the treasurer before any disinterested Justice of the Peace in the county.

Sec. 2. All drains and common shores for the

draining of cellars, which shall hereafter be made, or repaired in any streets or highways, shall be substantially done with brick or stone, or with such other materials as the *selectmen* of the town shall permit, and in such manner as they shall direct. And when any one or more of the inhabitants of any town, shall by the consent and under the direction aforesaid, at his or their own charge, make and lay any common shore or main drain for the benefit of themselves and others who may think fit to join therein, and every person who afterwards shall enter his or her particular drain into the same, or by any more remote means shall receive any benefit thereby, for the draining of their cellars or lands, shall be held to pay the owner or owners of such common shore or main drain a proportionable part of the charge of making or repairing the same, to be ascertained and determined by the *selectmen* of the town or a major part of them, and certified under their hands. The party aggrieved at such determination may appeal to the Court of Sessions.

Sec. 3. When any common shore or main drain shall be stopped or gone to decay, so that it shall be necessary to open the same, in order to repair it or remove such stoppage, all the persons who shall be benefited by such repairs or removal of obstruction, shall be held to pay their proportionable parts of the expenses thereof, as well those who do not as those who do cause such repairs to be made or obstruction removed; to be ascertained and determined by the *selectmen* as aforesaid, saving an appeal as aforesaid. And each person so held to pay his or her part, shall have notice thereof of the sum, and to whom to be paid; and if such person shall not pay the same within *ten days* after such notice, to the person appointed by the *selectmen* to receive it, he or she shall be held to pay the person so appointed double the sum mentioned in such certificate, with all costs arising upon such neglect, and such person is hereby empowered to bring *an action or actions* for the same accordingly.

Provided always, That the person or persons, who shall give occasion to open any common shore or main drain, in order to clear and repair the same, shall, *seven days* at least before they begin to open the same, notify all persons interested therein, by advertising in such manner as the *selectmen* may direct, that they may (if they think proper) object thereto, and lay their objections in person, or writing, before the *selectmen:* And if the selectmen, or a major part of them, shall judge the objections reasonable, then the person or persons making the same shall not be held to pay any part of such expense; but if they do not make their objections as aforesaid to the *selectmen* within *three days* after being so notified, or if they shall deem the objection not sufficient, then they shall, under their hands, give liberty to the persons applying, to proceed to open such common shore or main drain, and clear and repair the same; and all interested therein shall pay their proportions as is provided in this Act. *Provided also*, That nothing in this Act shall affect the covenants or agreements, already made, or that may be made among the proprietors of such drains or common shores.

31. *Watercourses.*

1786 C. 75, Sec. 1. The selectmen are to determine the necessity of watercourses by houses, shops, &c. See Surveyors of Highways, head 4.

32. *Oysters and other Shell Fish.*

1795 C. 71, Sec. 1. It shall not be lawful for any person to take any oysters from their beds, destroy them, or wilfully obstruct their growth therein, in any part of this Commonwealth, except as is herein after excepted; and every person who shall so take, destroy, or obstruct the same shall forfeit for every bushel of oysters, including the shells, so taken or destroyed, *two dollars: Provided however*, and it shall, at all times, be lawful for the major part of the selectmen, for the time being, of any town wherein oyster beds *shall be, to* give *permits*, in *writing*, to any person to

take oysters from their beds, at such times, in such quantities, and for such uses as they shall think reasonable and express in their permit: *Provided further*, and it shall be lawful for every inhabitant of any such town without such permit, to take oysters from their beds therein for the use of his or her family, from the first day of September to the first day of June, annually.

Sec. 2. If any person, shall take any other shell fish from their beds, destroy them, or wilfully obstruct their growth therein, in any of the towns of Malden, Medford or Charlestown, in the county of Middlesex; Rochester or Wareham in the county of Plymouth; Sandwich, Barnstable, Yarmouth, Dennis, *Wellfleet** and *Chatham*† in the county of Barnstable; Nantucket in the county of Nantucket; Edgartown or Tisbury in the county of Dukes; Dartmouth, Westport, Freetown, Swanzey, New Bedford, Somerset or *Berkley*‡ in the county of Bristol; Hingham in the county of *Suffolk;* or Brookline or Weymouth in the county of Norfolk, except as is herein after excepted, he shall forfeit for every bushel of such other shell fish, including the shells so taken or destroyed *one dollar*. *Provided nevertheless*, That the major part of the selectmen, for the time being, of each of the said towns, shall at all times have power to give permits in *writing*, to any person to take such other shell fish from their beds in their said towns, at such times, and in such quantities, and for such uses as they shall deem reasonable and express in their permit. *Provided also*, that every inhabitant of each of the said towns, without such permit, shall have a right to take such other shell fish from their beds therein, for the use of his or her family.

Sec. 3. If any vessel, boat or craft shall be found within the limits of any town, and not owned therein, with any oysters on board, taken in such town, without such permit, or within the limits of any one of the said specified towns, and not owned therein, with other shell fish on board, taken in such town without such

*See statute 1798 C. 14. † 1799 C. 19. ‡ 1808 C. 28.

permit, any inhabitant or inhabitants may seize and detain the same *forty eight hours*, in order that the same, if need be, may be attached in due course of law, in that time to answer the said fines with costs. *Provided however*, that as soon as the master or owner shall pay said fines, before sued, to the town treasurer, to the use of said town, such vessel, &c. with its effects, shall be discharged.

Sec. 4. All fines and forfeitures incurred by virtue of this Act, and that shall be *sued for* shall be, one half to the town, and the other half to him or them who shall sue for the same, to be recovered with costs, in an action of debt, before any Justice of the Peace (not interested) in the county, in case the forfeitures so recovered shall not exceed *four pounds**; if above that sum, then in the Court of Common Pleas.

Sec. 5. *Provided*, That nothing in this Act, shall extend to deprive native Indians of the privilege of digging shell fish for their own consumption, or to prevent any fisherman from taking any quantity of shell fish which he may want for bait, so that it do not exceed *seven bushels*, including their shells, at any one time.

33. *Trade and Employment.*

1785 C. 1, Sec. 1. Selectmen of Boston, Salem, Newburyport and Charlestown, and of every other town, where the selectmen thereof, with any two Justices of the Peace in the same county, shall judge such regulation necessary, shall from time to time, as occasion shall be, assign some certain places, for exercising any of the trades of killing creatures for meat, distilling spirits, frying tallow or oil, currying leather, or making earthen ware, and forbid and restrain the use of either of them, in places not allowed. Such assignment shall be entered in the town book, and notifications thereof posted in some public places in the same town.

Sec. 2. When any such places become a nuisance, they may be removed by the Court of Sessions.

Sec. 3. Persons making use of any of the afore-

* *See 1807 C. 123, Twenty dollars.*

said trades in places not assigned, forfeit *five pounds*, half to the prosecutor, and half to the Commonwealth, to be recovered by action of debt, in the Court of Common Pleas; or may be presented by the Grand Jury to the Court of Sessions, or Supreme Court, in which case the whole goes to the Commonwealth; and in either case the offender shall enter into recognisance, not to improve the same building for such use for the term of *three years, &c.*

1796 C. 88, Sec. 5. No person shall occupy or improve any building in any maritime towns, for the business of a *sail maker*, or *rigger*, or keeper of a *livery stable*, except in such parts of the town as the selectmen, or a major part of them shall direct, any person offending shall pay *ten dollars* for each offence; if a sail maker or rigger, and if a keeper of a livery stable, *fifty dollars* for every month, and in proportion for a longer or shorter time, two thirds to the use of the town and one third to the prosecutor, see Sec. 6.

34. *House of Correction, (see overseers of the poor, head 5.)*

1802 C. 22, Sec. 4. The keeper of such house may recover any sums allowed by the Court of Sessions, for the keeping, employing and supporting any person committed, of such person, his parent, master or kindred, who may be liable by law to maintain him, or of the town wherein he is lawfully settled, and if they shall refuse or neglect to pay such sum, for the space of *fourteen days* after demand made, in writing, of him or them, or of one of the selectmen of the town, such keeper may recover the same in an action against the persons or town, as the case may be, with interest from the time demanded, and costs.

35. *Watches and Wards.*

1796 C. 82, Sec. 1. All male persons of the age of *eighteen years*, being able of body or having estate sufficient to hire, shall be liable to watch and ward, *either in person or by sufficient* substitute when duly

warned, except those who live more than *two miles* from the place where the watch is kept, and except Justices of the Peace, selectmen, sheriff of the county, and settled ministers.

Sec. 2. When no military watch shall be ordered and kept, the Justices of the Peace, together with the selectmen, and where no Justice of the Peace (qualified to act) dwells, the selectmen alone, shall have power from time to time, to direct and order a suitable watch or watches, to be kept nightly, from nine o'clock in the evening until sunrise; and also a ward to be kept in the day time and evenings, when they shall think necessary, and to appoint the number of persons, and the place or places where to be kept, and the hours for keeping the same, and to give orders in writing accordingly, signed by the major part of such Justices and selectmen, directed to any constable or constables of the town or district, empowering and requiring him or them from time to time, to warn such watch or ward, and to see that all persons warned do attend, and do their duty, and in the warning to take care that some able householder, or other sufficient person be joined in each watch or ward.

And the constable shall charge the watch to see that all disturbances and disorders in the night be prevented and suppressed; and to examine all persons, walking abroad after *ten o'clock*, and whom they shall suspect of any unlawful intention or design, of their business abroad, at such season, and whither they are going, and if they do not give reasonable satisfaction, therein to secure, by imprisonment, or otherwise, all such disorderly and suspicious persons, to be safely kept until morning; then to carry them before one of the next Justices of the Peace to be examined, and proceeded against. And such watchmen shall walk the rounds in and about the streets, wharves, lanes, and principal inhabited parts, to prevent danger by fire, and to see that good order is kept, taking particular observation and inspection of houses and families of ill

ſame, and strictly observe the charge given them as aforesaid. And each constable, when attending watch or ward, shall carry with him the usual badge of his office.

Sec. 3. In any town wherein the said Justices and selectmen shall judge that a watch may be kept more for the benefit and safety thereof, in any other manner than above directed, and the inhabitants shall agree to support the charge of the same, the Court of Sessions, upon application made, are empowered to direct and order the rule for apportioning and levyivg such sum, upon the *inhabitants* and *residents*, as shall be granted by such town, as the Court shall judge most equal and just, by poll, estate, or both, to be applied accordingly.

Sec. 4. Whenever a watch shall be appointed and agreed upon different from a constable's watch, the number and qualifications of the persons whereof it shall consist, shall be agreed upon by the said inhabitants of the town, observing the rule in the *first section* of this Act; and one sober, discreet, able bodied householder shall be appointed officer of the watch, by said Justices and selectmen, to take the charge and command of such watch, who, as the badge of his office, shall carry a quarter pike, with a spire on the top thereof; and *all watchmen*, as well in this as in the constable's watch, shall carry a staff with a bill fastened thereon, as is usual.

And the powers and duties of the said officer and watchmen, shall be the same as is prescribed in the second section of this Act, in the case of a constable's watch.

Sec. 5. If any person liable to watch or ward as aforesaid, being duly warned by the officer of the watch or constable, or by the person by them appointed, shall refuse or neglect to appear and attend his duty, by himself or sufficient substitute, and be convicted before a Justice of the Peace by the oath of the constable, officer, or other testimony, on oath, without a just and reasonable *excuse, he shall* forfeit *one* dollar, to the

use of the poor of the town or district, to be levie with costs, by distress and sale of the offender's good and chattels, otherwise to be committed to prison unti the same shall be paid. If a constable or officer neg lect his duty, he forfeits *ten dollars* as aforesaid.

Sec. 6. When the said Justices of the Peace an selectmen shall think fit to walk by night, to inspect th order of the town, such of said constables and watch men shall attend them as shall be required to do th same, and obey their lawful commands.

Sec. 7. The fee to the gaoler for each person tak en up in the night and committed only till the next da *twenty five cents.*

36. *Wolves.*

1782 C. 39, Sec. 1. Whoever shall kill within th Commonwealth any grown wolf or wolf's whelp (othe than such as shall be taken out of the belly of an bitch wolf) and bring the head to the constable of th town where it was killed or the next town adjace unto the place of killing, without the bounds of an township, the constable in the presence of one or mo of the selectmen, shall cut off and burn both of th ears of the same, and such selectmen and constab shall give the party a receipt [see Form 71.] for th head, expressing whether it be a grown wolf or whelp and on producing the receipt the party shall be pai out of the town treasury *four pounds* for a grown wolf head, and *one pound* for a wolf's whelp; and all suc sums so paid, shall be paid and allowed to such tow by the Treasurer and Receiver General of this Con monwealth.

Sec. 2. All certificates of such payments to be r turned to the Treasurer and Receiver General, sha be in the form following. [See Form.]

37. *Contagious Sickness.*

*1797 C. 16, Sec. 1. When any person coming fro

*Powers conferred on selectmen, by this act, transferred to t board of health in Boston, 1799 C. 10: 1816 C. 44: in Sale

abroad, or belonging to any town or place within this state, shall be visited, or shall lately before have been visited with the plague, small pox, pestilential or other malignant fever, or other contagious sickness, the infection whereof may probably be communicated to others; the selectmen of the town, where such person or persons may arrive or be, are hereby empowered to take care and make effectual provision in the best way they can, for the preservation of the inhabitants, by removing such sick or infected person and placing him or them in a separate house or houses, and by providing nurses, attendance and other assistance and necessaries for them; which nurses, attendance, and other assistance and necessaries shall be at the charge of the party themselves, their parents or masters (if able) or otherwise at the charge of the town or place whereto they belong; and in case such persons are not inhabitants of any town or place within the state, then at the charge of the Commonwealth.

Sec. 2. Any person or persons coming from any place out of this state, where the small pox or other malignant distemper is prevailing, into any town within this state, shall, when thereto required by the selectmen of such town, within the space of *two hours* from the time they shall be first informed of their duty by law in this particular, give notice to one or more of the selectmen or the clerk of such town, of their coming there, and of the place from whence they came, upon pain of forfeiting, in case of neglect, *one hundred dollars*. And such person or persons, if not disabled by sickness, shall, within the space of *two hours* after warning given to him or them by the selectmen of such town for that purpose, depart from this state in such manner, and by such road, as the said selectmen shall direct; and in case of refusal, it shall be lawful for any Justice of the Peace in the county where such town may lie, by warrant directed to a con-

1799 C. 14: *in Marblehead, 1801 C. 43: in Plymouth, 1809 C. 63: in Charlestown, 1818 C. 12.*

stable or other proper officer, or other person whom the Justice shall judge proper, to cause such person or persons to be removed into the state from whence he or they may have come. And any person removed by warrant as aforesaid, who, during the prevalence of such distemper, shall presume to return into any town of this state, without liberty first obtained from some Justice, shall forfeit and pay *four hundred dollars;* and any inhabitant of this state, who shall entertain in his house any person warned to depart as aforesaid, for the space of two hours after notice given him of such warning, by one or more of the selectmen aforesaid, shall forfeit and pay *two hundred dollars.*

Sec. 3. It shall and may be lawful for the selectmen of any town near to, or bordering upon either of the neighbouring states, to appoint by writing, under their hands, some meet person or persons to attend at ferries or other places by or over which passengers may pass from such infected places; which person or persons, so appointed, shall have power to examine such passengers as they may suspect to bring infection with them, and if need be, to hinder and restrain them from travelling, until licensed thereto by a Justice of the Peace within such county, or by the selectmen of the town in which such person or persons may come; and any passenger, who, coming from such infected place, shall (without license as aforesaid) presume to travel within this state, unless it be to return by the most direct way to the state from whence he came, after he shall be cautioned to depart by the person or persons appointed as aforesaid, shall forfeit and pay *one hundred dollars;* the several forfeitures aforesaid to be recovered by action of debt in any court of record proper to try the same, half to the use of the town where the offence was committed, and half to the prosecutor.

Sec. 4. If need be, any two Justices of the Peace *may* make out a warrant directed to the sheriff of the *county or his* deputy, or constables of the town or

place where any such sick person or persons may be, requiring them, or any of them, in the name of the Commonwealth, with the advice and direction of the selectmen of the same, to remove such infected person or persons, or to impress and take up convenient houses, lodging, nurses, attendance and other necessaries, for the accommodation, safety and relief of the sick. And they are authorised and required to execute such warrant accordingly.

Sec. 5. Whenever there shall be brought into any town within this state, either from any other town therein, or from parts without the state, any baggage, clothing, or goods of any kind whatsoever, and it shall be made to appear by the selectmen of the town to which such baggage, clothing or other goods shall be brought, or by the major part of such selectmen, to the satisfaction of any Justice of the Peace, that there is just cause to suspect baggage, clothing or other goods to be infected with the plague, small pox, pestilential fever, or other malignant contagious distemper, it shall be lawful for such Justice of the Peace, and he is hereby required in such case, by warrant under his hand and seal, directed to the sheriff or his deputy, or any constable of the town in which such baggage, clothing or other goods shall be, requiring him to impress so many men as said Justice shall judge necessary to secure such baggage, clothing or other goods, and said men to post as a guard and watch over the house or other place or places where such baggage, clothing or other goods shall be lodged; which guard and watch are hereby required to take effectual care to prevent such baggage, clothing or other goods being removed or intermeddled with, by any person whatsoever, until due inquiry be made into the circumstances thereof, requiring likewise, the said sheriff, deputy or constable, if it shall appear necessary, with the advice and direction of the said selectmen, to impress and take up convenient houses or stores, for the receiving, lodging and safe keeping of such baggage, clothing or other goods,

until the same shall be sufficiently cleansed from infection: And in case it shall appear highly probable to the said Justice that such baggage, clothing or other goods, are infected as aforesaid, he is hereby empowered and directed to issue his warrant as aforesaid, requiring said sheriff, deputy or constable, or other person therein specially named, to remove said baggage, clothing or other goods, to some convenient place where there shall be the least danger of the infection spreading; there to remain until the same shall be sufficiently aired and freed from infection, in the opinion of said selectmen: And the said sheriff, deputy or constable, in the execution of said warrants, are empowered and directed, if need be, to break up any house, warehouse, shop, or other place *particularly mentioned in said warrant*, where such baggage, clothing or other goods shall be; and in case of opposition, to require such aid as shall be necessary to effect the execution of said warrants, and repel such opposition; and all persons are hereby required at the commandment of either of said officers, having either of the warrants aforesaid, under penalty of *ten dollars*, to be recovered before any Justice of the Peace in the county where such opposition may happen, to assist such officer in the execution of the same warrant against any opposition as aforesaid; and the charges of securing such baggage, clothing or other goods, and of airing and transporting the same, shall be borne and paid by the owners thereof, at such rates and prices as shall be set and appointed by the selectmen of the town where such baggage, clothing or other goods shall be, to be recovered by action of debt, by any person or persons who may have been employed in the business aforesaid, in any court of record proper to try the same.

Sec. 6. Inquiry shall be made by the officer or other person on duty at the castle in the harbour of Boston, of every vessel coming from sea and passing by the said castle, whether any infectious sickness be on board, or has been on board since such vessel left the

port from whence she last came: And if any such vessel has any sickness on board, or has had any on board since her leaving such port, in such case, orders shall be given by such officer, or other person on duty, to the commander of such vessel, immediately to anchor and remain at anchor, until a certificate shall be obtained from the major part of the selectmen* (Board of Health) of the town of Boston, that they are of opinion such vessel may come up to the town withont danger to the inhabitants, or until the said commander shall receive orders from the said selectmen (Board of Health) to anchor his vessel near the hospital or Ramsford's Island, in the harbour of Boston. And in case any master or commander of a vessel shall, by himself, or the people on board, make false answer when inquired of as aforesaid, by the officer or other person on duty as aforesaid, or, after orders are given as aforesaid, shall neglect or refuse to anchor near the castle as aforesaid, or come on shore, or suffer any passenger or other person belonging to the vessel to come on shore, or any goods to be taken out before the vessel shall have anchored, or without liberty from the selectmen as aforesaid; or in case any commander of a vessel ordered to anchor near the hospital aforesaid, shall neglect or refuse so to do; in every such case, every commander so offending shall forfeit and pay for each offence, *four hundred dollars* or suffer *six months* imprisonment.

Sec. 7. Upon application made to the selectmen (Board of Health) of the town of Boston, by any commander of any vessel at anchor near the hospital as aforesaid, the said selectmen (Board of Health) are hereby empowered to permit such passengers, goods or lading, as they shall judge free from infection, to come on shore, or to be taken out and disposed of as the owners shall see fit; and such passengers and goods as shall not be permitted as aforesaid, shall remain on board, or be landed on said Island. And if any com-

* *Powers of selectmen* transferred to Board of Health.

mander of any such vessel for the time being, shall come on shore, or suffer any of his people or passengers to come on shore, or any boat to come on board, or suffer any goods to be taken out of his vessel, unless permitted as aforesaid, or shall come up to said town with his vessel, until by a certificate under the hands of said selectmen (Board of Health) or the major part of them, it shall appear, that said vessel company and goods are clear of infection, and the orders for stopping the same be removed or taken off, he shall for every such offence, forfeit *two hundred dollars*, and in case he be not able to pay that sum, he shall suffer *three months imprisonment.* And if any sailors or passengers coming in said vessel shall, without the knowledge or consent of the commander, presume to come on shore, or up above the castle aforesaid, or if any person shall knowingly presume to go on board from shore, or to go to the aforesaid house or Island, in time of infection there, without leave as aforesaid, or if any person put sick into the said house, or sent there on suspicion of being infected, shall presume to go off the said Island without leave as aforesaid; any person offending in any of the particulars above mentioned, shall forfeit *two hundred dollars*, and in case he be not able to pay the forfeiture, he shall suffer *two months imprisonment*:

All prosecutions for offences contrary to this and the preceding section, shall be by indictment or information in the Supreme Judicial Court or Court of Sessions, half to the town of Boston, and half to the use of the selectmen of that town for the time being, whose particular duty it is hereby made to prosecute therefor.

Sec. 8. Whenever any ship or vessel, wherein any infection or infectious sickness hath lately been, shall come to any harbour within the State, or whenever any person or persons belonging to, or that may either by sea or land come into any town or place near the public hospital aforesaid, shall be visited, or shall lately *before have* been visited with any infectious sickness;

two of the Justices of the Peace, or selectmen of such place, be and hereby are empowered immediately to order the said vessel and sick persons to the said hospital, there to be taken care of according to the directions of this Act. And where any such ship, vessel or persons cannot, without great inconvenience and damage be ordered to the aforesaid hospital; in any such case, the rules and directions are to be observed, which are provided in the first enacting clause of this Act. And in case the commander or mariners of any vessel, ordered to the hospital as aforesaid, shall refuse or delay for the space of *six hours* after such order being given to said master, or either of the owners of said vessel, or of the factors, or either of said owners of the goods, to come to sail, if wind and weather permit, in order to proceed to said hospital; such master so refusing, shall forfeit *four hundred dollars*, and each mariner so refusing, *one hundred dollars;* and in case they be not able to pay said sums, they shall suffer *six months'* imprisonment; one half of said fine to the informer, and the other half to the poor of the town or district to which such port or harbour belongs, to be recovered in any court of record proper to try the same, by indictment or information.

Sec. 9. If any master, seaman or passenger belonging to any vessel, on board which any infection is or may have lately been, or suspected to have been, or which may have come from any part where any infectious, mortal distemper prevails, shall refuse to make answer on oath to such questions as may be asked him or them relating to such infection, by the selectmen of the town to which such vessel may come (which oath the said selectmen are hereby empowered to administer) such master, seamen or passenger so refusing, shall forfeit *two hundred dollars*; and in case he be not able to pay said sum, he shall suffer *six months imprisonment;* and penalty to be adjudged on prosecution by indictment or information in any court proper to try the same, half to the use of the town

where the offence may be committed, and the other half to the use of the selectmen thereof, whose particular duty it is hereby made to prosecute therefor.

And the selectmen of Boston are hereby authorized and directed to provide nurses, assistance and other necessaries, for the comfort and relief of such sick persons may be sent to said hospital as aforesaid; the charge as thereof to be borne by the said persons themselves, if able, or if poor and unable, by the towns to which they respectively belong; or if not inhabitants of any particular town or other place within this state then by the Commonwealth.

Sec. 12. Whenever any vessel shall arrive at any port other than Boston, within this Commonwealth, having on board any person visited with the plague, small pox, malignant fever, or any other pestilential disease, the master, commander or pilot thereof, shall not bring such vessel up near the town of the port where she first arrives, until liberty be first granted, in writing, by the selectmen thereof; but they may bring such vessel to an anchor, in such place below the town, as will be most for the safety of the inhabitants thereof, and the preservation of the vessel and the people on board, there to wait for orders from the selectmen of such town before any passenger or person belonging to, or any thing on board the same be brought on shore: And any master or commander of such vessel, who shall be found guilty of a breach of the law contained in *this section*, shall forfeit *two hundred dollars* for each offence, upon conviction thereof before any court proper to try the same. And any pilot who may go on board any such vessel and pilot the same up to the town, without liberty first had and obtained from the selectmen thereof as aforesaid, shall, upon conviction in manner as aforesaid, forfeit a fine of *fifty dollars* for every such offence: All which fines contained in *this section* may be sued for and recovered, with costs of suit in manner as aforesaid, by the selectmen of the town where the offence is committed, to and for the use of the same town.

38. *Quarantine law.*

1799 C. 59, Sec. 1. Whenever it shall appear to the selectmen of any seaport town within this Commonwealth (other than Boston and Salem) that the safety of the inhabitants thereof requires, that any vessel or vessels which shall arrive in any harbour or river within this Commonwealth, from any port or place, should perform quarantine, the selectmen* of any town where such vessel shall so arrive are hereby required and empowered to cause such vessel or vessels to perform quarantine, at such place as they shall appoint, and under such restrictions and regulations as they may judge expedient; and any owner, master or supercargo, officer, seaman or consignee of such vessel or vessels, or any other person who shall neglect or refuse to obey the orders, directions, rules, regulations and restrictions of the said selectmen, respecting the said quarantine, and shall be convicted thereof, upon indictment or information, before the Supreme Judicial Court or Court of Sessions in the county, shall forfeit not exceeding *five hundred dollars*, or be imprisoned not exceeding *six months*, or both, at the discretion of the court.

Sec. 2. When any master or commander of any vessel shall come up to any seaport town aforesaid, with his said vessel, after notice given him by any person or persons whomsoever, that a quarantine has been directed by the said selectmen for all vessels coming from the port or place from which such master or commander shall have arrived; or shall falsely or fraudulently attempt to elude the directions of the said selectmen, by false or unfounded declarations of the port or place from whence he came; or shall land, or suffer to be landed from his vessel, any person or persons, or apparel, bedding, goods or merchandize whatsoever, without the permission of said selectmen, any such master

* Powers of selectmen, in this act transferred to board of health in Marblehead 1801 C. 43: in Plymouth 1809 C. 63: in Boston 1816 C. 44: in Charlestown 1818 C. 12.

or commander shall, upon conviction thereof in manner and form pointed out in the *first section* of this Act, forfeit, as in said first section.

Sec. 3. Whenever the said selectmen shall think it necessary to order all vessels which shall or may arrive at any of the seaport towns aforesaid, from any particular port or ports, to perform quarantine, and shall give notice of such order to the pilots of said seaport towns; it shall be the duty of such pilots to make known the said order to the captains or masters of all vessels which they shall board. And if any pilot, after notice given to him as aforesaid, shall neglect to make known the said order, or shall pilot any such vessel up to any town aforesaid, he shall, upon conviction thereof in manner and form pointed out in the *first section of this Act*, forfeit not exceeding *one hundred dollars.*

Sec. 4. The selectmen of each of the seaport towns aforesaid, shall provide at the expense of such town, a suitable number of red flags, of three yards at least in length; and the master of every vessel ordered to perform quarantime, for the purpose of purification shall hoist one of said flags at the head of the mainmast, there to be kept during the whole time, so long as said vessel or vessels are performing quarantine; and no person during that time shall go on board, except those employed by the said selectmen; and every person who shall transgress by going on board any such vessel, shall be considered as contaminated with infection, and held to undergo purification in the same manner, and under the same regulations and restrictions, as those persons who are performing quarantine on board such vessel or vessels; and shall there remain until discharged by order of said selectmen, who, by any person or persons employed by them, may forcibly detain such person or persons transgressing as aforesaid, for the purpose of purifying as aforesaid.

Sec. 5. In any seaport town aforesaid, where there is a health committee or a health officer, legally chosen *and appointed in* manner as directed by the statute of

1797 C. 16, Sec. 11. [see Health Committee] and the selectmen of such town shall judge it necessary, and shall certify under their hands, or the major part of them; such health committee or health officer are hereby authorized to perform all the duties, and exercise all the authority which selectmen are authorized and required to execute, in requiring any person or persons, vessel or vessels as aforesaid, to perform quarantine in manner as pointed out in this Act.

Sec. 6. All the forfeitures in this Act, shall accrue to the use of the town where the offence was committed; and all expenses arising from any vessel, person or persons, or effects on board the same, performing quarantine as aforesaid, shall be paid by the owner or owners of such vessel, or effects on board the same; and in case of refusal to pay such expenses, the same may be recovered by an action of debt, in the name of the selectmen, health committee or health officer, as the case may be, in any court proper to try the same.

39. *Hospitals for the Small pox.*

1792 C. 58, Sec. 2. It shall be lawful for the inhabitants of any town or district, at any meeting legally warned, *eight days* before holding the same, to agree upon, erect, establish, or appoint such hospital or hospitals, for inoculation with the small pox, within the same town, as shall be thought proper by the major part of the *legal voters* present at the same meeting: *Provided however*, that all such hospitals shall be subject to such orders, regulations and restrictions as the selectmen of the town or district, or a committee of said town or district appointed for that purpose, where such hospital shall be, shall agree upon and establish for the safety of the people; and the inhabitants of the same town or district, at a legal meeting, shall have power to *discontinue* such hospital whenever they shall think proper: *Provided however*, that no such hospital shall be erected within *one hundred rods* of any dwelling *house inhabited, situated* in any adjacent town, in *legal town meeting therefor*, first had and obtained.

Sec. 3. No person shall inoculate any other person, or inoculate himself or herself, or suffer himself or herself to be inoculated with the *small pox*, unless at some hospital licensed and authorized according to this Act, on pain that every person so offending, shall, for each offence forfeit not exceeding *forty pounds*, to be recovered on indictment or presentment of the grand jury, at the Supreme Judicial Court or Court of Sessions within the same county, one half to be paid into the treasury of the town, and the other half to the treasury of the county.

Sec. 4. Whenever any hospital shall be so erected, established or appointed, the physician, the persons inoculated, or sick there, the nurses, attendants, and all persons who shall approach or come within the limits of the same, and all such property as shall be used or brought there, shall be subject to all such orders and regulations as shall be made by the selectmen, or a committee appointed for that purpose, to prevent spreading the infection.

Sec. 5. When the small pox shall unexpectedly break out in any town or district, the selectmen, of the same shall have power and it shall be their duty immediately to provide such hospital, or place of reception for the sick and infected, as they shall judge best for their accommodation, and the safety of the inhabitants, and may give license for inoculating there all such persons as shall be supposed to have taken infection; and such hospitals and places of reception shall be subject to the orders and regulations of the selectmen, in the same manner as is herein before provided respecting licensed hospitals; and the said selectmen shall cause such sick and infected persons to be removed to such hospitals, or places of reception, unless the condition of the sick person should not admit of removal without danger of life; in which case, the house or place where the sick shall remain, shall be considered as an hospital, to every purpose before mentioned, and all persons residing in, or in any way concerned with the same, shall

be subject to the orders and regulations of the selectmen of the town or district, as before expressed and provided.

Sec. 6. In all the cases above mentioned, it shall be the duty of the selectmen, to use all possible care to prevent the spreading of infection and to give public notice to travellers of infected places, by displaying red flags at proper distances, and by all other means which in their judgment, shall be most effectual for the common safety; and in case any physician or other person within any of the hospitals, or places of reception above described, who shall attend, approach, or be concerned with the same, shall violate or contravene any of the restrictions, orders or regulations of the same, made according to this Act, either in respect of himself, or his, or any other person's property, the person so offending shall, for each offence, forfeit not exceeding *thirty pounds*, nor less than *four pounds*, to be recovered and paid in the same manner as is in this Act before provided, in case of offences committed by inoculating, or being inoculated contrary to the form and effect of this Act.

Sec. 7. Whenever any householder shall know that any person within his or her family is taken sick of the small pox, such householder shall immediately give notice thereof to the selectmen of the town or district of which such householder shall be an inhabitant or resident, on pain that every householder, who shall refuse or neglect to give such notice, shall forfeit and pay for such offence, not exceeding *thirty pounds* nor less than *ten pounds* to be recovered, paid and appropriated as is provided before in this Act,

40. *Cow Pox.*

1809 C. 117, Sec. 1. It shall be the duty of every town, district and plantation, wherein no board of health shall be established by law, at their annual meetings, in the months of March or April, annually, to choose, in the *manner in which* other town officers are by la

chosen, three or more suitable persons, whose duty it shall be to superintend the inoculation of the inhabitants of such town, district or plantation, with the cow pox.

Sec. 2. It shall and may be lawful for the inhabitants of any town, district or plantation, at any of their said annual meetings, to provide for the inoculation of the inhabitants, with the cow pox, under the direction and control of said superintendants, or a board of health, where such board is established; and to raise all necessary sums to defray the expenses of such inoculation, or such part thereof as they may deem proper, in the same way and manner that other town charges are by law defrayed.

ASSESSORS.*

OATH.

1785 C. 50, Sec. 5.] *YOU A. B. one of the assessors for the of C. for the year ensuing, do swear, that you will proceed equally and impartially, according to your best skill and judgment, in assessing and apportioning all such rates and taxes as you may, according to law, be directed to assess and apportion during that time. So help you God.*

HEADS.

1 Choice. 2 State Tax. 3 Duty premium to assessing taxes. 4 Assessment and commitment of taxes 5 Highway tax. 6 Collector. 7 Decease of a Col

* For their duty in assessing school district taxes, see school districts, head 3, and shools, head 1. Likewise—

1809 C. 127. The assistant assessors in any town wherein such offices are, or may by law be chosen, shall before entering on the duties of their office, be sworn to the faithful discharge thereof and shall have all the power and all the duties in making lists of voters and ratable polls as assessors are required to do *and perform.*

lector. 8 Collector removed, or about to remove. 9 Collector remiss in his duty. 10 Collector absconded, or secreted. 11 Collector *non compos mentis*, infirm, or having a Guardian. 12 Abatement of taxes. 13 Fees.

When the Treasurer is appointed Collector—see head 4.

1. *Choice, (see selectmen, head 3.)*

1811 C. 9, Sec. 2. They are chosen by written ballots, (except in Boston.)

1785 C. 50. Sec. 1, and 1785 C. 75, Sec. 10. In the month of March or April, annually, at the meeting when other town or district officers are chosen, there shall be chosen, by the major part of the qualified voters then present, *three*, *five*, *seven* or *nine*, meet persons, to be assessors of all such rates and taxes as the General Court shall order, and they shall also be the assessors of all county, town and district taxes. Assessors so chosen and being notified who neglect to appear and take the oath, or appearing refuse to be sworn, forfeit *five pounds* each, to the poor of the town, to be recoved by the treasurer, before the Court of Sessions for the county by complaint, which in substance shall be as follows—[see Form 111.]

NOTE.—Said court may remit the penalty if they see cause on reasonable excuse. [See Town Treasurer, head 8.]

2. *State Tax.*

1785 C. 50, Sec. 4. They shall duly observe all warrants from the Treasurer or Receiver General, for the assessing any tax or rate on the inhabitants or estates within the town or district, or forfeit the whole amount ordered to be assessed, to the use of the Commonwealth, and for want of estate to imprison said assessors until they pay the same.

Sec. 1. They must return a certificate [see Form 85.] of the assessment of any state tax, to such Treasurer or Receiver General.

1785 C. 46, Sec. 3. This certificate must be returned within sixty days from the time appointed in the warrant for certifying the same.

Sec. 2. One assessor may give the sheriff a certificate of the receipt of a warrant from the state treasurer. [Town clerk, head 17.]

1785 C. 50, Sec. 1. If the warrant shall not be received before the *first day of March*, it shall be delivered to their successors. [For further duty, see head 4.]

3. *Duty previous to assessing taxes**.

1785 C. 50, Sec. 9. The assessors of each town, district, plantation, precinct and parish respectively, in convenient time, before they proceed to make any assessment, shall give seasonable warning to the inhabitants, at any of their respective meetings or by posting up notifications† in some public place in said town, district, plantation, precinct or parish, or notify the inhabitants in some other way, to make and bring in to them, the said assessors, true and perfect lists of their polls, and of all their estates, real and personal, (not exempt from taxation) which they were possessed of at such periods as the General Court shall order; and persons, having it in their power, and neglecting to bring in a list as aforesaid, shall not be admitted to make application to the Court of Sessions for abatement. Either of the assessors may administer an oath [see Form 87.] to any one who they suspect of any falsehood in such list returned, and the list so sworn to shall be taken, unless the assessors discover any article or articles kept back.

4. *Assessment and commitment of taxes.*

JUDICIAL DECISIONS.

Payson vs. Tufts and al. Mass. Reports, v. 13, page 493. A Guardian of minors is liable to be taxed for the property of his wards, in his possession; and

* *For the mode of making taxes, see Form 160.* † See Form 86.

on his neglect or refusal to pay such tax, the same remedies lie as in case of his neglect or refusal to pay the tax set upon his own estates.

Amesbury Woolen, and Cotton Manufactory, vs. inhabitants of Amesbury.

Mass. Reports v. 17, page 461. Manufacturing corporations are not liable to be taxed for the personal stock employed by them, in the towns where their manufactories are established.

Dillingham vs. Snow and al. Mass. Reports, v. 5, page 547. An agreement between neighboring towns, not to tax in one, the lands of the inhabitants of the other in their own occupation, is invalid, as against the provisions of the law regulating the assessment of taxes.

Libbey vs. Burnham and al. Mass. Reports v. 15, page 144. Assessors cannot lawfully add more than five per cent. to the amount of any tax. To include in such additions the commissions for collecting, if exceeding five per cent. is illegal.

Ruggles vs. Kimball. Mass. Reports, v. 12, page 337. An ordained minister, not settled in any particular parish, is not exempted from taxes by statute, 1811 C. 6.

Newburyport Turnpike Corporation, vs. John Upton and others. Mass Reports, v. 12, page 575. Assessors may lawfully set a tax against the non resident owners of real estate in the actual occupation of tenants at will.

Stetson vs. Kempton and al. Mass. Reports, v. 13, page 272. Assessors who assess a tax by force of an unauthorized vote of the town, are liable in trespass to the individual whose property is taken to satisfy such tax; and this, notwithstanding there may be included in such assessment other sums lawfully voted and raised by the town.

1785 C. 50, Sec. 1. They shall assess the polls of, and estates *within the town* or *district*, their due pro-

portion of *any tax* according to the rules set down in the act for raising the same, and make perfect lists thereof under their hands or the hands of the major part of them, and commit [for form of commitment see Form 88] the same to the constable or constables, collector or collectors, of their town or districts, if any there be, otherwise to the sheriff or his deputy, with a warrant [see Form 89] under their hands and seals.

Sec. 8. All *county, town, district, plantation, precinct* and *parish* rates and taxes, shall be assessed and apportioned by the assessors thereof, upon the polls and estates within the same, according to the rules that shall from time to time, be prescribed by the then last Tax Act of the General Court.

Sec. 11. All assessors are authorized to apportion on the polls and estates such additional sum over the sum committed to them to assess, as fractional divisions may render convenient, not exceeding *five per cent.* on the sum taxed: *Provided* the whole excess shall not exceed *forty pounds;* the said surplus to be paid into the treasury of such place, and it shall be the duty of the assessors to certify such surplus to such treasurer.

Law passed Feb. 21, 1824, Sec. 3. A copy of the lists of assessments of all taxes together with a copy of the invoice and valuation from which such assessments shall be made, shall, before the taxes assessed are committed for collection, be deposited in the assessors office, where such office is kept, otherwise shall be lodged with the chairman or principal assessor, there to remain, to the end that all persons interested may have an opportunity of examining and exposing any error, for the purpose of correction, which may have happened in the assessment of any taxes aforesaid.

Sec. 2. The assessors of any city, town or district, may add their proportion of any *State* and *County tax*, to the city, town or district tax, for assessments, whenever they deem it convenient. And in every case where assessors shall so add such taxes, for assessment, *it shall be the duty* of all such assessors, to insert in the

commitment of their list or lists, of assessments to the collectors, the proportion of the State and County tax, each respectively may bear to the whole amount of such assessment.

Sec. 5. Assessors of *cities, towns, districts, parishes* or *religious societies*, shall not hereafter be made responsible for the assessment of any tax on the inhabitants of such places, of which they are assessors, when thereto required by the constituted authorities thereof, but the liability, if any, shall rest solely with said city, town, district, parish or religious society, and the assessors shall be responsible only for their own integrity and fidelity.

Sec. 4. The following shall be the Form of *invoice* or *valuation* and the assessments thereon to be deposited as aforesaid, viz :

Names.	No. of polls.	Description of estate taxed.	True value.	Red'd val.	Poll tax.	Tax on real estate.	Tax on personal estate.	Total tax.
		REAL.				12,00	33,30	47,05
A.B.	2	1 house & barn	500		1,75			
		4acres,homelot	500					
		10 do. meadow	500					
		300 acres un-	1500	90				
		improved	1500	30				
				120				
		PERSONAL.						
		1 horse	50					
		1 chaise	200					
		Plate	300					
		Money at int'st	5000					
			5550	333				

A distinct column for deficient highway tax, see head 5 which follows.

For the method of making taxes, see Form 94.

NOTE.—1815 C. 130, Sec. 4. When towns appoint their treasurer a collector agreeably to this statute, at the annual meeting, the assessors shall assess their taxes in due form and deposite the same in the hands of the treasurer for collection, with a warrant according to law, after he shall have been duly qualified, together with his deputies, and at the same time shall post up notifications [see Form 90] thereof, together with a copy of the second section of this act in one or more public places within said town. See Town Treasurer head 6.

5. *Highway Tax.*

1786 C. 81, Sec. 3. Each town, at some public meeting of the inhabitants thereof, regularly notified and warned, shall vote and raise such sum of money, to be expended in labor and materials on the highways and town ways, as they shall determine necessary for the purpose: And the assessors shall assess the same on the polls and ratable estate, personal and real of the inhabitants, residents and nonresidents of their town, as other town charges are by law assessed, and deliver to each *surveyor* a list [see Form 91] of the persons, and the sums at which they are severally assessed for his limits.

The assessors shall put into a distinct column in the *next assessment* for a town tax all deficient sums that the surveyor of highways shall certify to them; to be collected as other town taxes are collected, and paid into the town treasury, for the use of the town.

1796 C. 58, Sec. 7. The lands of nonresident proprietors shall be taxed for the making and repairing of highways, in the same way they are taxed for other town or county taxes; and upon default of payment *the same proceedings* shall be had, as is provided for *the collection of* other taxes from such persons, and *without any other* notice.

Sec. 5. Surveyors of highways shall exhibit their rate bills to the assessors, on the first Monday of July *annually*, and also at the expiration of their terms, and at such times shall render an account of all monies that have been expended on the ways; if they neglect this duty they forfeit *twenty dollars*, for each offence, to be recovered by action of debt by the treasurer, and to the use of the town.

Sec. 4. Assessors of *plantations* are to assign to the several surveyors of highways their divisions and limits, for making and repairing the highways, before the first day of May *annually*.—See Selectmen, head 22.

1818 C. 121, Sec. 1. Towns having a population of *eight hundred* inhabitants, at any public, legal meeting of the inhabitants thereof, regularly notified and warned for that purpose, may vote to raise any sum of money to be laid out for the making and repairing of highways and townways, in said towns, as they may deem necessary; and may, by a vote of said towns if they see fit, direct the same to be assessed in *money** on the polls and ratable estate, real and personal, of the inhabitants, residents, and nonresidents of their towns, as other town charges are by law assessed; and the same be committed to the collector of taxes of said town, to be collected and paid, as other town charges are collected and paid, any law to the contrary notwithstanding.

For assessors' duty respecting *contracts* for making or repairing roads, see Surveyors of Highways head 8.

6. *Collector.*

1785 C. 70, Sec. 1. When no collector is chosen, or when chosen refusing to serve, the constable shall be collector.

7. *Decease of a Collector.*

1785 C. 70, Sec. 1. In case any constable or collector of taxes decease before his perfecting the collec-

* *Libbey vs. Burnham and others.* Mass. Rep. vol. 15, p. 144. *Assessors may not assess a highway tax as a money tax excepting according to this statute.*

tion of any assessment committed to him to collect and pay into the *State treasury*, the assessors for the time being, of the town, district or plantation, shall nominate and appoint [see Form 92] at the charge of such town, district or plantation, some other fit person or persons to perfect the same collection, and grant a warrant to them for that purpose.

1785 C. 46, Sec. 5 In case of the decease of any constable or collector in any *town*, *district*, *plantation*, *parish* or *precinct*, before his having adjusted the accounts of his assessments to him committed to collect, for such *town*, *district*, *plantation*, *parish* or *precinct*, the executors or administrators, shall, within *two months* after his decease, settle and make up accounts with the assessors, of such part of the assessment as was received and collected by the deceased collector, in his life time, with which such executors or administrators shall be chargeable, in like manner as he would be if living: And if they shall fail of settling up as aforesaid, before the expiration of the time aforesaid, they shall be chargeable with the whole sum committed to him, in the same manner he would be if living:

And such assessors shall thereupon procure and appoint, *in writing* [see Form 92] some suitable person a collector to perfect such collection, who shall have all the powers granted to the deceased collector.

1791 C. 22, Sec. 1. In case of the decease of any constable or collector of taxes before his perfecting his collections, the assessors, for the time being, shall have power to demand and receive the list or lists of assessments, from the executors or administrators, or of and from any person in whose hands the same may be, and deliver the same to the collector newly appointed.

8. *Collector about to remove, or removed, (see selectmen, head 5.)*

1783 C. 10, Sec. 1. Assessors may request the *selectmen to call* a town meeting to appoint some person *or persons* to settle with a collector, who has re-

moved, or in their judgment is about to remove, (having assessments in his hands,) before the time set in his warrant to make payment, or the time of payment be elapsed, and the treasurer or treasurers has thereupon issued his or their warrant, for the money he has received, on the rate bill or bills, and demand and receive his said bills and give him a discharge therefor. At the said meeting the inhabitants may proceed to the choice of another collector who must be sworn; and the assessors shall make out a new warrant and deliver the same to him with the same bill or bills, to collect what remains due: In case he does not accept, the penalty is the same as if chosen at the annual meeting. They have the same powers as the first collector.

Sec. 2. If they refuse to deliver the bills, and all monies collected on demand of assessors or selectmen, he forfeits *sixty pounds*, and shall be liable to pay what remains due upon the bills, to be recovered by action of debt in any court proper to try the same, to the use of such town, precinct or parish, of which he was collector.

9. *Collector remiss in his duty.**

1785 C. 46, Sec. 4. When a collector shall be remiss or negligent of his duty, in not levying and paying unto the Receiver General such sums of money as he shall from time to time have received, and as ought by him to have been paid within the time set in the assessor's warrant, such treasurer [see Form 112.] may issue his warrant against him.

Sec. 5. If he have no estate whereon to make distress, and his person cannot be taken within *three months*, or being taken and committed to gaol shall not within *three months* satisfy the same, the town, district, or plantation shall, within *three months*, after the *first three months*, make good such deficiency; and such assessors, having notice in *writing*, from the treasurer,

* See *town treasurer, head 5.*

of such failure, shall forthwith thereupon, without any other or further warrant, assess the sum so deficient, on the inhabitants and estates, in manner as the first was assessed, and commit the same with a warrant to some other collector or constable; and in default the treasurer is authorised to issue his warrant against the assessors for the whole sum.

Provided, That such collector shall be liable to the action of the town, for all such sums assessed upon them with damages.

Sec. 6. If a collector or constable of any *town*, *district*, *plantation*, *precinct*, or *parish* taxes, shall be remiss in his duty, by neglecting to collect and pay in the same to the treasurer, by the time fixed in the warrant, such treasurer is hereby empowered to issue his warrant as follows—[see Form 112.]

Sec. 7. The officer must return the warrant or *execution* to the treasurer within a reasonable time after the return day with the money received, and if it is returned satisfied in part the treasuer may issue an *alias* for what remains due, and so on: The reasonable time above mentioned, shall be *forty eight hours* for every ten miles distance from the officer's house to the place of return. If the sheriff makes default of his duty, he shall pay the whole sum, and the treasurers are respectively authorised to issue their warrants as above, directed to a coroner. [For officers duty further, see this statute, Sec. 8.

Sec. 14. Whenever any such constable or collector shall be taken on execution by virtue of this act, the assessors aforesaid may demand a copy of him, of all assessments in his hands, with the whole evidence of all payments on the same; and if he delivers them up with the whole evidence aforesaid, he shall receive such credit as the assessors shall judge him entitled to; and he shall be holden to pay the sum he may be found deficient after such credit; and if he shall refuse to deliver up his bills with the evidence aforesaid, he shall *forthwith, either* by the officer taking him as aforesaid,

or by warrant from a Justice of the Peace, committed to the common gaol of the county, to remain until he shall exhibit the same for the purpose aforesaid: And the same town, district, plantation or parish, may, at any other than the annual meeting, choose a collector to finish the collections, who shall be sworn, and if he refuse to serve the penalty is the same as for a constable: And such assessors are to take the duplicate, or copies of the record of such assessments, if the same are recorded, and deliver the same to such new collector with a warrant to finish such collection in the form by law prescribed, *(mutatis mutandis,)* and such collector shall proceed to finish such collection, of all persons who did not pay the same to the collector taken as aforesaid, in the same manner as collectors are to proceed in collecting like species of rates or taxes. *Provided always*, That such new collector, on averment of payment, by a person assessed, to the collector taken, and denial of payment to such new collector, shall not proceed to distrain or imprison any person, unles a vote of such place is had therefor, and certified to the same collector by the clerk of such town, district, plantation, precinct or parish.

10. *Collector absconded or secreted.*

1785 C. 46, Sec. 15. If a constable or collector of any town, district, plantation, precinct or parish, shall abscond or secrete himself for the space of *one month*, having assessments in his hands, the assessors are empowered to charge him therewith, by declaration filed in the Supreme Judicial Court, and thereupon proceed to judgment of outlawry, against him; and the same proceedings respecting the collections, &c. may be had as is prescribed under head 9, when the collector refuses to show his bills. If a collector during the process of outlawry, shall surrender himself, confess and pay all taxes in his hands, no further proceedings shall be had except for costs, which he shall be holden to pay: after *judgment of* outlawry he may settle, and

if the court record the satisfaction and payment, it shall reverse the judgment of outlawry; and such town &c. shall have all other remedies against such collector, as they would have been entitled to had no such process of outlawry been commenced.—And towns, &c. are empowered to choose a new collector.

11. *Collector, non compos mentis, infirm, or having a Guardian.*

1791 C. 22, Sec. 1. When any constable or collector of any town, district, plantation, precinct or parish, who is already, or may hereafter become *non compos mentis*, or who hath, or may have a guardian duly appointed, or who hath already been, or may hereafter, by bodily infirmities, be rendered incapable of discharging the duties of his office, in the judgment of the assessors, before such insane or infirm collector has perfected his collection, the assessors shall thereupon procure and appoint, in writing, under their hands, some suitable person a collector, to perfect such collection, and grant him a warrant for that purpose:—*Provided*, no person shall be appointed to complete the collection of such *infirm* collector, unless he shall request the same. When it shall appear to the assessors that such insane or infirm collector shall have paid to the treasurer, a larger sum than the amount he had collected, they shall in their warrant to the collector by them appointed, direct him to pay such sum overpaid, to the Guardian of such insane collector, or to such infirm collector; and the assessors, for the time being, shall have power to demand and receive list or lists, of and from such infirm collector, or from the guardian of *non compos mentis*.

12. *Abatement of taxes.*

1785 C. 50, Sec. 10. If any person, be aggrieved at the sum set and apportioned upon him, by any assessors, and shall make it appear to the assessors for the time *being, that he is* rated more than his proportion, accor-

ding to the rules given in the act of the General Court for making such assessment, they shall make reasonable abatement to such person, if they refuse, he may complain, [see Form 93.] in writing, to the Court of General Sessions of the Peace in the county, who are empowered on such complaint to require the assessors to produce the valuation, or copy, by which the assessment was made, and may relieve such person, if they think fit. [See head 3.]

For abatement of school district taxes, see school districts, head 4.

13. *Fees.*

1785 C. 50. Sec. 2. Each assessor shall be paid out of the town or district treasury *four shillings* for each whole day he shall be necessarily employed in said service.

OVERSEERS OF THE POOR.*

No Oath is required of these officers.

HEADS.

1 Choice. 2 Maintenance of their own paupers.— 3 Support by Kindred. 4 Poor persons committed to Gaol. 5 House of Correction. 6 Overseers may bind out poor children. 7 Elopement. 8 Overseers may bind out Adults. 9 Unincorporated places. 10 Relief of a pauper by an individual. 11 Decease of a pauper. 12 Strangers relieved. 13 State poor. 14 Exhibition of accounts to the General Court. 15 Penalties for bringing poor persons into town. 16 Houses of ill fame. 17 Bastard Children. 18 Pros-

* For the duty of Overseers of a Workhouse, see that article. Overseers of the Poor may commit certain persons to the Workhouse—see article Workhouse, Sec. 6, 7, 10, and Form 110.

ecution to be carried on by Overseers. 19 Guardians of Idiots, Lunatics and distracted persons. 20 Guardians, of Spendthrifts. 21 Militia. 22 Settlements. 23 Ancient Settlements.

1. *Choice.*

1793 C. 59, Sec. 1. Towns at their annual meeting, may choose any number of persons not exceeding *twelve*, to be overseers of the poor.

2. *Maintenance of their own Paupers.*

1793 C. 59, Sec. 1. Every town and district shall be holden to relieve and support all poor and indigent persons lawfully settled therein, whenever they shall stand in need thereof; and may vote and raise monies therefor, and for their employment, in the same way that monies for other town or district charges are voted and raised.

Sec. 2. Overseers shall have the care and oversight of all such poor persons, and shall see that they are suitably relieved, supported and employed, either in the workhouse or other tenements belonging to the town or district, or in such other way as the inhabitants shall direct in town meeting, otherwise at the discretion of the overseers, at the cost of such town or district.

[Wilson vs. Church. Pickering's M. R. v. 1. page 23.—Whether a town can assign a pauper by *auction*, or any other manner than by *indenture*, was a question in this case, but not decided by the Judge.]

3. *Support by Kindred.**

Sec. 3. The kindred, in the line or degree of *father* or *grandfather*, *mother* or *grandmother*, *children* or *grandchildren*, if any he have, of sufficient ability, by consanguinity, and living within this Commonwealth,

* Salem vs. Andover. Mass. Reports v. 3, page 436. The kindred of a pauper cannot be called upon to contribute to his support, but by the overseers of the town, where he has his legal settlement, or by some other of his kindred.

shall be holden to support such pauper in proportion to such ability; and towns and districts or kindred who have been at expense, may file a complaint [See Form 95.] in the clerk's office of the Court of Common Pleas, in the county where any one of the kindred to be charged shall reside; and the court may assess such sums and on such kindred as they think fit: *Provided*, such assessment shall not extend to any expense for relief afforded more than six months before filing the complaint. For further duty of the court, see remainder of the section.

4. *When a poor person is committed to Gaol.*

1817 C. 186, Sec. 2. No person committed to prison upon execution for debt,* and who shall have obtained the liberty of the yard upon giving bond for that purpose, shall be chargeable to any town or district as a pauper for a longer time than *forty five days*,† after he has given said bond; *Provided nevertheless*, that no such debtor shall be chargeable to any town or district for his support more than *four days* after he has obtained the liberty of the yard, until he shall make oath before some Justice of the Peace of the same county, that by reason of his poverty, he is unable to pay for his board, and that he cannot procure employment within the prison limits, whereby he can support himself, or by reason of bodily indisposition he is unable to support himself by labor; and the Justice shall certify the same, and that he believes it to to be true.

* Adams vs. Wiscasset. Mass. Reports, v. 5, page 328. Prisoners committed for offences against the Commonwealth, are a charge upon the Commonwealth, and the town in which a prison is situated is not answerable for their support or for medical aid furnished them.

† *Forty days*, if the execution creditor lives within fifty miles of the prison and is notified as he must be in both cases.

Taunton vs. Freeport. Mass. Reports v. 12 page 355. The town in which certain paupers had their legal settlement, was holden liable to the town wherin the county gaol was situate for the support of the paupers, who were committed to the gaol as idle and disorderly *persons, by a Magistrate*, there being no house *of correction in the county.*

1819 C. 94, Sec. 1. When any person, committed to prison on *mesne process*, or execution, in any *civil action*, shall obtain the liberties of the prison yard, such person shall not be deemed and considered a pauper, so long as he or she shall be at large within the limits of the prison yard, nor shall the town to which such debtor belongs, nor the Commonwealth, in case such debtor has no legal settlement therein, be charged with his or her support.

Sec. 2. Every town or district, which shall be liable for, and shall have paid any of the charges of maintaining, in close prison, any person as a pauper, hereafter committed on *mesne process*, or execution, in any civil action, may recover the same in an action of law against the creditor, at whose suit such debtor shall have been committed, and for the time he shall continue imprisoned at the suit of such creditor, at the rate of *one dollar and twenty five cents* per week, for the support of such debtor; such creditor is also liable to the Commonwealth for similar expenses incurred by the Commonwealth.

Sec. 3. The keeper of the prison shall be entitled to receive at the rate of *one dollar twenty five cents* per week, and no more, for the support of each debtor, being a pauper in close confinement.

Sec. 4. No part of the statute of 1819 C. 94, shall apply to any commitments for debts contracted, or for any cause of action which shall accrue on, or previous to March 14th 1820.

1821 C. 22, Sec. 1. Whenever any person hereafter confined in close prison, on *mesne process* or execution issued upon any cause of action, accruing after March 14th 1820, shall claim relief as a pauper, the keeper of the prison shall after twenty four hours from the time such claim is made, furnish relief and support at the charge and expense of the creditor, so long as he shall be confined at his suit, at the rate of *one dollar* and *twenty-five cents*, per week; and no town or

district shall hereafter be liable for the support of any poor debtor confined in manner aforesaid.

Sec. 5. Unless the creditor advances the money, or gives security for such expenses, the said keeper after *twenty four hours* may discharge him.

1817, C. 186, Sec. 3. The overseers of the poor in any town in which a county gaol is situated, are authorised and directed, at their discretion, by their order in writing, to set to work under their direction, or the direction of any other suitable person, any debtor, committed to prison on *mesne process* or execution, and actually chargeable to any town and district within this Commonwealth for his support, whether such prisoner shall have the liberty of the yard or not: And the order of said overseers shall remain in force until they shall revoke the same, or such prisoner shall provide for himself; but no such prisoner shall be required to labor more than is necessary to pay the expense of his support. And no such prisoner shall be chargeable to any town or district, as a pauper, while such order of the overseers shall remain in force, except for the deficiency of his earnings to pay the expense of his support.

Sec. 4. No person committed to gaol on *mesne process*, or execution, and who shall apply to the overseers of the poor for relief, shall have and use any spirituous liquors without the consent of such overseers or one of them, in writing. If the keeper or other person, shall furnish any spirituous liquors contrary to this section of the act, he forfeits not less than *five*, nor more than *ten dollars*.

5. *House of Correction, (see selectmen, head* 34.*)*

1787 C. 54, Sec. 1. Where no house of correction is built or provided, the common prison in each county may be made use of for that purpose.

Sec. 4. If any person committed, shall be unable to work, or be weak, and sick, or the profits of whose work shall not be sufficient to support him or her, then

to be comfortably provided for and taken care of by the master of such house, who shall be reimbursed the same by the parent, master, *town*, or the government, who are by law obliged to maintain and support such persons when unable to support themselves, as the case may require.

Sec. 5. The master of such house shall, for his care, labor and service, in looking after such persons, receive such sum over and above one third part of their earnings as the Court of Sessions shall order, to be paid by the same, as is mentioned in Sec. 4.

Whenever any person, committed, shall apply to the master of said house for a discharge therefrom, the said master shall signify the same [see Form 96.] to the overseers of the poor of the town, in which such house of correction shall be, or to the overseers of the poor of such town as the person committed shall belong to, and the major part of either of the overseers of the poor, aforesaid, upon its being made to appear to them that the ends of such commitment have been answered, are hereby empowered to issue their order [see Form 97.] to the master of such house of correction to discharge the said person from his or her said confinement, the charges arising therefrom being first paid in manner as before provided; and the said master is hereby required to discharge him accordingly.

1797 C. 62, Sec. 1. The Court of Sessions have authority to appoint, where the circumstances require it, three or five suitable persons to be overseers of such house.

Sec. 4. All persons confined shall be wholly under the government of the overseers and master; and all charges attending the business more than the wages of the prisoners, or such expenses as arise and ought to be borne by the *individuals out of their estates*, shall be paid out of the county treasury when allowed by the Court of Sessions.

Feb. 21, 1824. No person shall deliver to any *persons* committed to the house of correction, any spi-

rituous liquors without the consent of the master of such house.

6. *Overseers may bind out poor Children.*

1793 C. 59, Sec. 4. Any male or female children, whose parents are lawfully settled in, and become actually chargeable to the town; also the children of parents so settled, as shall be thought by said overseers to be unable to maintain them, (whether they receive alms, or are so chargeable or not;) *Provided*, they be not *assessed* to any town or district charges; also all such who or whose parents residing in their town or district, are supported there at the charges of the Commonwealth, or whose parents are unable to support them as aforesaid, the overseers may *bind out any to citizens of this Commonwealth, as apprentices* to be instructed and employed in any lawful art, trade, or mystery, or as servants to be employed in any lawful work or labor, male children till they come to the age of *twenty one years*, and provision must be made in the deed for instructing them to read, write, and cypher; and female children till they come to the age of *eighteen*, or are married, and to be instructed to read and write, and in both cases for such further instruction, benefit and allowance, within or at the end of the term as the overseers shall think fit and reasonable.

They are to be bound by deed [see Form 98] indented or poll.

Sec. 5. It shall be the duty of said overseers, to enquire into the usages of children so bound out, and to defend them from injuries. And upon complaint [see Form 99] by such overseers to the Court of Common Pleas in the county where the town is, or where the child may be bound, against the master of any such child, for abuses, ill treatment or neglect, said court (having duly notified the party complained of) may proceed to hear the complaint, and if the same be supported, and the cause sufficient, may liberate and

discharge such child from its master, with costs, for which execution may be awarded; otherwise the complaint shall be dismissed, but without costs, unless it appears groundless and without *probable* cause, in which case costs shall be allowed the *respondent.*

An apprentice or servant discharged as aforesaid, or whose master shall decease, may be bound out anew, for the remainder of the term in manner as aforesaid. And overseers may also have remedy, by action on such deed, against any person liable thereby, for recovery of damages of breaches of any covenants therein contained, which when recovered shall be placed in the town or district treasury, deducting reasonable charges, and disposed of by the overseers, at their discretion, for the benefit and relief of such apprentice or servant within the term: the remainder, if any, to be paid him at the expiration thereof.

Apprentices and servants when their term is expired, shall have like remedy for damages aforesaid, *not been recovered* by action on such deed, to be delivered to them for that purpose: *Provided* such action be commenced within two years after the expiration of the term.

And such court may discharge any apprentice or servant upon complaint [see Form 100] of the *master,* for gross misbehavior, after due notice to the overseers, and hearing thereupon.

No action shall abate by the death of an overseer, but it shall proceed in the names of the original plaintiffs or survivors of them. [Head 2.]

7. *Elopement.*

1793 C. 59, Sec. 5. In case of elopement of any *apprentice or servant above named,* he may be apprehended by any Justice of the Peace of the county where he is bound, or where he may be found, upon complaint [see Form 101] of the master, or any other on his behalf, and returned to his master by any per-

son to whom the warrant may be directed, or may be first sent to the house of correction at the justice's discretion. And every person enticing such apprentice or servant to elope from his master, or harboring him, knowing him to have eloped, shall be liable to the master's action for all damages sustained thereby.

8. *Overseers may bind out adults.*

1793 C. 59, Sec. 6. Overseers have power to set to work, or bind out to service by deed [see Form 102] as aforesaid, for a term not exceeding one whole year at a time, all such persons residing and lawfully settled in their towns or districts, or who have no such settlement within the Commonwealth, married or unmarried, upwards of *twenty one years of age*, as are able of body, but have no visible means of support, who live idly, and use and exercise no ordinary or daily lawful trade or business to get their living by; and also all persons liable to be sent to the house of correction, upon such terms and conditions as they shall think proper: *Provided always*, that any person thinking him or herself aggrieved by the doings of said overseers in the premises, may apply by complaint [see Form 103] to the Court of Common Pleas in the county where they are bound, or where the overseers dwell, for relief; which court, after due notice to the overseers, and to their masters, shall have power, after hearing, if they find sufficient cause to discharge him or her, otherwise to dismiss the complaint, and give costs to either party or not as they think reasonable. See head 2.

9. *Unincorporated places.*

1793 C. 59, Sec. 7. Poor persons standing in need of relief, living without the bounds of any incorporated town or district, shall be under the care of the overseers of the poor, appointed in the adjoining town or district *wherein the inhabitants of such unincorporated place are usually taxed:* And the same overseers shall have the like authority to bind out the children of such poor persons as they are vested with, respecting the

children of persons in like circumstances, inhabitants of the town or district in which they are appointed. And such overseers may also set to work, or bind out as aforesaid, for a space not exceeding *one* whole *year* at a time, all such persons above the age of twenty one years, married or unmarried, residing in their county, but without the bounds of any town or district, as are able of body, but have no visible means of support, or who live idly, using no ordinary daily lawful trade or business to get their living by, or who are liable by any law to be sent to the house of correction, and shall receive and apply their earnings (deducting reasonable charges) to the support of them or their families, if any they have, at their discretion, saving to such persons the like remedy for relief, if they think themselves aggrieved, as is by this act provided [see the last head] for persons, or bound out for like causes by overseers of towns.

10. *Relief of a Pauper by an Individual.*

1793 C. 59, Sec. 13. Every town and district shall be holden to pay any expense which shall be necessarily incurred for the relief of any pauper, by any inhabitant not liable by law for his or her support, *after notice* and *request* made to the overseers of said town or district and until provision shall be made for them.

JUDICIAL DECISIONS.

Watson vs. Cambridge. Mass. Rep. vol. 15, p. 286. When an inhabitant of a town incurs an expense for the relief of a pauper, for which the town is liable after notice and request to the overseers of such town, *such notice* and *request* need not be in *writing:* And an action against the town for the reimbursement of such expense is not limited to two years after the notice.

Mitchel vs. Cornville. Mass. Rep. vol. 12. p. 333. No action lies for an individual against the town of a pauper's legal settlement, for supplies furnished the pauper, unless the individual be an inhabitant of such *town; but* he must apply to the overseers of *his own*

town, and *they* to the town of the pauper's legal settlement.

Miller vs. Somerset. Mass. Rep. vol. 14. p. 396. A surgeon who had performed a difficult operation on a pauper, not resident in the town where he had his settlement, without the application of the overseers of such town, has no right of action therefor against the town.

Kittridge vs. Newbury. Mass. Rep. vol 14, p. 448. Where a pauper had immediate need of a surgical operation, in a town in which he was not legally settled; and the same was performed by a surgeon not belonging; without the request of the overseers of the poor, the town where the pauper resided was holden not liable; and the surgeon not having made a demand within *three months*, it was holden that the town would not have been liable, if the surgeon had been an inhabitant of the town.

Redfield vs. Dresden. Mass. Rep. vol. 12. p. 317. Where an inhabitant of the town of A. after a refusal of the overseers, had himself supported a pauper, having his lawful settlement in B.; and afterwards recovered satisfaction thereof of the town of A.; it was holden that A. could not maintain an action against B. although satisfaction was recovered within two years, *the original expense having been longer incurred.*

For further judicial decisions, see head 12.

11. *Decease of a Pauper.*

1817 C. 186, Sec. 6. Upon the decease of any pauper, who, at the time of his decease, shall be actually chargeable to any town or district within this Commonwealth, the overseers of such town or district, may take into their possession all the personal property belonging to such pauper. And if no administration shall be taken on the estate within thirty days after his decease, said overseers may sell so much of said property as may be necessary to repay the expenses incurred for such pauper. And if any part of such property is

withheld, they shall have like remedy for the recovery as administrators.—For further duty, see heads 12 and 13.

12. *Strangers.*

1793 C. 59, Sec. 9.* It is the duty of the overseers of the respective towns and districts, to provide for the immediate comfort and relief, of all persons *residing* or *found therein not belonging thereto*, but having lawful settlements in other towns or districts, when they fall into distress and stand in need of immediate relief; and until they shall be removed to the places of their lawful settlement, the expenses whereof, incurred within *three months* next before notice [see Form 104] given to the town or district to be charged, as also of their removal or of their burial in case of their decease, may be sued for and recovered, either in a civil action by the town or district incurring the same, against the town or district wherein such person had such settlements, or in the method by complaint [see next page.] in this act prescribed: *Provided* such action or complaint for damages be commenced or preferred within *two years* after the cause of action arose. And in such civil action, the settlement of the pauper shall not be contested by the defendants, if it hath been then adjudged to be in their own town or district, upon such process as is herein after prescribed; otherwise it may be: And a recovery in such action shall bar the town or district against which the same shall be had, from disputing the settlement of such pauper, in such town or district, with the town or district so recovering, in any future action or process brought and prosecuted for the support and removal of such pauper.

Sec. 10. All persons actually chargeable, or through age or infirmity, idleness or dissoluteness, are likely to become chargeable to the places wherein they are found, but in which they have no lawful settlements,

* For the decisions of the Supreme Court on this section, see *Post.*

may be removed to the place of their former settlements, if they have any within this Commonwealth: And in order to effect such removal (and also to recover the expenses incurred for the relief of such persons, if the overseers choose that mode in preference to a civil action, said overseers may apply, by complaint, to any Justice of the Peace in their county not an inhabitant of their town or district, which complaint may be in substance as follows. [See Form 106.]

No costs to be awarded for such town if defaulted, but if the complaint be not entered, or be discontinued, or not prosecuted, the town complained of appearing, and praying therefor, shall recover costs.

And the overseers where such pauper may be sent by warrant as aforesaid, shall be obliged to receive and provide for such person accordingly; and the Justice may award execution for damages and costs, and may tax in costs a reasonable sum for the expense of removal, and the execution may be issued to and executed by a proper officer in the county where the town is, against which it issues.

Either party may appeal to the Court of Common Pleas.

Sec. 11. Such complaint may be *originally* made by the overseers, if they see fit, to the Court of Common Pleas in the county, by filing the same with the clerk, and procuring a summons from him as before mentioned, and causing the same to be served, &c. as prescribed before a Justice.

And depositions may be used before the Justice or Court when taken legally and for legal cause.

Sec. 12. Overseers may, in all cases, if they judge it expedient, previous to any such application to Court or Justice, send a *written* notification [see Form 104] stating the facts relating to any person actually become chargeable to their town or district, to one or more of the overseers of the place where his settlement is sup-

* *See Judicial* Decisions following.

posed to be, and requesting them to remove him, which they may do, or authorise in writing some one to do for them: And if such removal is not effected, nor objected to [see Form 105] by them, *in writing*, after such notice, to be delivered *in writing*, within *two months* after such notice, to the overseers of the town or district requesting such removal, or to some one of them, then such overseers may remove such persons by land or water, as is most convenient, by a *written order* directed to and served by any person who shall be mentioned in the order, to said place of his supposed settlement, the overseers whereof shall be obliged to receive and provide for him, and their town or district shall be liable for the expenses of his support and removal, to be recovered by action, as before mentioned by the town or district incurring the same, and shall be barred from contesting the question of settlement with the plaintiffs in such action. And if any such person return after having been lawfully removed to his place of settlement, he shall be deemed a vagabond and may be sent by a Justice of the Peace, on conviction, to the house of correction.

JUDICIAL DECISIONS.

Freeport vs. Edgecumbe. Mass. Rep. vol. 1, p. 459. In an action against a town for the support of a person alleged to be a pauper, the defendants may prove his ability to maintain himself—see section 9.

Southbridge vs. Charlton. Mass. Rep. vol. 15, p. 248. Towns furnishing supplies to paupers belonging to other towns, may generally recover what they have *bona fide* paid; but if the charges are extravagant, they are bound to attempt to remove the pauper, or to give notice of the expense to the town eventually liable—see section 9.—N. B. This decision was previous to the statute of 1821 C. 94.

Hanover vs. Turner. Mass. Rep. vol. 14, p. 227. If the overseers of the poor, relieve the wants of the wife, *whose husband* has a legal settlement in another town,

an action lies at common law for the town whose overseers furnished the relief, against the husband; notwithstanding the statute remedy against the town wherein he is settled—see section 9.

Marlborough vs. Rutland. Mass. Rep. vol. 11, p. 483. To entitle a town which has supported a pauper belonging to another town, to recover an indemnification, it is not necessary that the pauper be actually resident in the town at the time of giving notice to the town in which he has his legal settlement; it is sufficient that he was then supported at the expense of the town so giving the notice.

Harwich vs. Hallowell. Mass. Rep. vol. 14, p. 184. Expenses incurred in the support of a pauper, although within *three months* prior to the notice required by the statute cannot be recovered, if they arose more than *two years* before the commencement of the action—see sections 9 and 12.

Hallowell vs. Harwich. Mass. Rep. vol. 14, p. 186. Expenses incurred for the support of a pauper, more than *two years* before action brought, cannot be recovered, although the same plaintiffs have in a former action, recovered from the same defendants expenses incurred for the support of the same pauper—Nor without a new notice—see sections 9 and 12.

Readfield vs. Dresden. Mass. Rep. vol. 12, p. 317. No action lies for a town for the support of a pauper, having his lawful settlement in another town, for any expenses incurred more than *two years* before action brought—see sections 9 and 12.

Freeport vs. Edgecumbe, and Topsham vs. Harpswell. Mass. Rep. vol. 1, p. 459, 518. Expenses incurred by a town for the support and burial of a pauper, are recoverable of the town in which his settlement is supposed to be, if the overseers of the poor in the same town have neglected for *two months*, after notice, and request to remove him, or to object to such request—*and his settlement* cannot be contested in an *action brought to* recover such expenses—see sections *9 and 12.*

Shirley vs. Lunenburg. Mass. Rep. vol. 11, p. 379. It is an error in the proceedings before a Justice of the Peace or on an appeal before the Court of Common Pleas, for the removal of a pauper if the pauper be not summoned or present, but the *pauper only* can avail himself of such error—see section 10.

Shutesbury vs. Oxford, and Andover vs. Canton. Mass. Rep. vol. 16, p. 103, vol. 13, p. 555. Overseers in their notice that a person is chargeable, must *particularize* his *family* if he has one—see section 12.

Groton vs. Lancaster. Mass. Rep. vol. 16, p. 110. It is not sufficient to send the notice by mail, but if such notice is received and answered, it *is* sufficient—see section 12.

Sidney vs. Augusta. Mass. Rep. vol. 12, p. 316. When in consequence of notice to the overseers of a town in which a pauper has his legal settlement, they provide for him; if the pauper afterwards receives aid from the same town, which gave the notice, a new notice is necessary, in order to charge the town of the pauper's settlement—see section 12.

Quincy vs. Braintree. Mass. Rep. vol. 5, p. 86. A notice from the overseers of the poor of the town of A. to the overseers of the poor of the town of B. stating that a pauper has his settlement in B. that he is resident in A. and requires support, which has been afforded him by the overseers of A., is sufficient within the statute of 1793 C. 59, Sec. 12, to estop the town of B. from contesting the settlement of the pauper in B. in an action for such support: the said notice being unanswered by the town of B.—see section 12.

Shelburne vs. Rochester. Pickering's Mass. Rep. vol. 1, p. 470. A letter was sent by the overseers of one town to those of another in which was a mistake received and answered. The mistake was corrected in the second letter referring to the first and was not answered—held in connection to be good notice from *the second letter.*

A notice respecting a pauper whose christian name

was Sally, calling her Sarah or Sally, was held sufficient.

Braintree vs. Hingham. Mass. Rep. vol. 17, p. 432. It is no sufficient bar to an action by the town of A. against the town of B. that the plaintiffs had given notice to the town of C. and claimed payment of the same sum; and, such notice, being unanswered according to the statute, had recovered judgment therefor against the town of C.—see section 12.

Newton vs. Randolph. Mass. Rep. vol. 16, p. 426. A notice from one town to another, claiming reimbursement for the expense of supporting a pauper, given pending an action for the recovery of that expense, or after its final decision, although unanswered, operates no estoppel on the town notified, to deny the settlement of the pauper with them—see section 12.

For further judicial decisions on this statute, see head 10, and Form 104.

1821 C. 94, Sec. 3. If any person standing in need of relief, shall be supported in any town, district or city, in this Commonwealth, other than the one in which such person may have a legal settlement, the town, district or city, in which such person has a legal settlement, shall not, in any case, be subjected to a greater expense than at the rate of *one dollar* per week during the continuance of such supplies: *Provided* the town, district or city, in which such person has a legal settlement, shall cause such pauper to be removed, within *thirty days* from the time of receiving legal notice, that such support has been furnished.

1817 C. 186, Sec. 5. The inhabitants* of any town or district, who have incurred expense for the support of any pauper, whether he was legally chargeable to them or not, by means of his settlement, may recover the same against such person, his executors or administrators in an action of assumpsit, for money paid, laid out, *and expended,* for his use.

* See page 102.

13. *State Poor, (see head 12.)*

1793 C. 59, Sec. 13. Overseers shall also relieve and support, and in case of their [see head 11.] *decease, decently bury* all poor persons residing or found in their town or district, having no lawful settlements within this Commonwealth, when they stand in need, and may employ them as other paupers may be; the expense whereof may be recovered of their relations, [see head 3.] if they have any chargeable by law for their support in manner before pointed out; otherwise it shall be paid out of the treasury of the Commonwealth, by warrant from the Governor, by and with the advice of council, an account thereof having been first [see head 14.] exhibited to, and examined and allowed by the General Court. And upon [see Form 107.] complaint of such overseers, any Justice of the Peace in the county may, by warrant, directed to, and which may be executed by any constable of their town or district, or any particular person by name, cause such pauper to be sent and conveyed, by land or water, to any other state, or to any place beyond sea, where he belongs if the Justice shall think proper, and if he may be conveniently removed, at the expense of the Commonwealth; but if he cannot be removed, he may be sent to, and relieved, and employed in the house of correction, or workhouse at the public expense.

1821 C. 20. Whenever any town within this Commonwealth shall incur expense in relieving or supporting any poor person, who has no settlement within this Commonwealth, such town shall be entitled to a reimbursement, at a rate not exceeding, in any case, *ninety cents* per week, each for adults,, and *fifty cents* each, for children.

Law passed June 24, 1823. No male person over the age of *twelve*, and under the age of *sixty years*, while of competent health to labor, shall be considered a *State pauper*, and entitled to support as such.

14. *Exhibition of accounts to the General Court.*

1784 C. 35. *All accounts or demands* against the Commonwealth, must be exhibited for liquidation and allowance, within two years after the same shall accrue, become due and payable, and not afterwards.

1823 June 24. Whenever the overseers of the poor in any town or city within this Commonwealth, shall exhibit an account against the same, for the support of paupers, they shall certify that no part of such account is for the support of any male person over the age of twelve, [see head 13.] and under the age of sixty years, while of competent health to labor.

1798 C. 64, Sec. 1. The selectmen or overseers, when they shall make application to the General Court for payment of any expenses which may have accrued for supporting any poor person, shall be required to make and exhibit a certificate setting forth the place from whence such person came, the time of his or her coming into this Commonwealth, and where he or she shall have resided subsequent to his or her coming into the same, and that he or she has not gained a settlement in any town or district within the Commonwealth in any of the ways pointed out in an act passed Feb. 11, 1794 (statute of 1793 C. 34.) specifying what shall constitute a settlement: And also that he or she has no kindred within the Commonwealth by law obliged to support him or her.

And in case such person came into this Commonwealth before the 10th day of April 1766, whether he or she was warned to depart from the town or district where he or she resided: And if such application be for expenses incurred for the support of a woman who shall have married a person not an inhabitant of this Commonwealth, or for the child of such woman, then the said selectmen or overseers shall be required to certify, that such woman or child has no legal settlement in any place in this Commonwealth *according to the* existing laws for determining

questions of habitancy; in all which certificates, the said selectmen or overseers, shall certify that they make the same on the best evidence they can obtain.

15. *Penalties for bringing poor persons into town.*

1798 C. 59, Sec. 15. If any person shall bring and leave any poor and indigent person into any town or district in this Commonwealth, wherein such pauper is not lawfully settled, knowing him to be poor and indigent, he shall pay *twenty pounds* for each offence, to be sued for and recovered by, and to the use of such town or district, by action of debt in any court proper to try the same.

Sec. 16. If any master or other person, having charge of any vessel, shall therein bring into, and land, or suffer to be landed in any place within this Commonwealth, any person, before that time convicted in any other state, or in any foreign country, of any infamous crime, or any for which he hath been sentenced to transportation, knowing of such conviction, or having reason to suspect it, or any person of notorious dissolute, infamous and abandoned life and character, knowing him or her to be such, shall for every offence forfeit *one hundred pounds*, half to the Commonwealth and half to the prosecutor to be recovered as aforesaid.

Sec. 17. The master or any other person having charge of any vessel arriving at any place within this Commonwealth with any passengers on board, from any foreign dominion or country, without the United States of America, shall within *forty eight hours* after such arrival make a report, in *writing*, under his hand, of all such passengers, their names, nation, age, character and condition, so far as hath come to his knowledge, to the overseers of the poor of the town or district, at or nearest to which such vessel shall arrive, *who shall record the same in a book kept* for that purpose in their office. And every such master *or other person*, that shall neglect to make such report, *or that shall* wittingly and willingly make a false one,

shall for each offence forfeit *fifty pounds*, to the use of the town, to be recovered as aforesaid.

1819 C. 165. When any ship or vessel having any passengers on board, who have no settlement within this Commonwealth, shall arrive at any port or harbor within the Commonwealth, the master of such ship or vessel, shall, before such passengers come on shore, leave a list of their names and places of residence, with the *selectmen or overseers of the poor* of the town, where such passengers shall be landed; and if, in the opinion of the *selectmen or overseers of the poor*, any such passengers may be liable to become chargeable for their support to the Commonwealth, the master of such ship or vessel shall, within five days after his arrival as aforesaid, and on being notified by the selectmen to that effect, enter into bonds with sufficient sureties, to the satisfaction of said selectmen, in a sum not exceeding *five hundred dollars* for each passenger, to indemnify and save harmless such town, as well as the Commonwealth, from all manner of charge and expense which may arise from such passengers, for and during the term of three years; and if the master of such ship or vessel shall land any such passengers, without entering their names and giving bonds as aforesaid, he shall forfeit *two hundred dollars* for each passenger so landed; to be recovered by action of debt, half to the Commonwealth and half to the prosecutor.

16. *Houses of ill Fame.*

1793 C. 59, Sec. 8. Any person who shall be suspected of keeping a house of ill fame, resorted to for the purposes of prostitution and lewdness, may be apprehended by warrant from any Justice of the Peace in the county, upon complaint [see Form 108.] of the *overseers of the poor* of the town or district where such house shall be; and upon conviction of such offence before such Justice, or before the Court of Sessions, or *presentment* of the grand jury, may be ordered to the house of correction, for a term not ex-

ceeding one month; and after such conviction, shall not be allowed to keep lodgers or boarders, in any town or district, without the license of the *overseers of the poor thereof.*

17. *Bastard Children.*

1785 C. 66, Sec. 2. Towns may require of the father of a *bastard child*, bonds for its maintenance, and he may be committed to prison until he find sureties for the same.

18. *Prosecution.*

1793 C. 59, Sec. 14. In all actions and prosecutions by complaint founded on the statute of 1793 C. 59, for or against any individual, the overseers of the poor thereof, or any person, by writing, under their hands appointed, shall and may appear, prosecute or defend the same to final judgment and execution, in behalf of such town or district, and every act or thing required or authorised by them to be done by said statute may be done by them or the major part of them.

19. *Guardians of Idiots, Lunatics and Distracted Persons.*

1783 C. 38, Sec. 2. It shall be in the power of the Judge of Probate, upon request [see Form 109.] made by the *overseers of the poor* in a town where any idiot, *non compos* or lunatic lives or is an inhabitant (or by request of the friends or relations) to direct the selectmen to make inquisition thereinto. [See selectmen, head 16.]

20. *Guardians of Spendthrifts, (see selectmen, head* 14.

1806 C. 102. *Guardians* of spendthrifts may sell so much* of their real estates as is necessary to provide for the maintenance and support of their families, and

* 1818 C. 112. Or the whole, if a partial sale will greatly injure the remainder; and said certificate of the overseers of the *poor, shall contain*, in that case, their consent and approbation *of such sale*, and their opinion, that by a partial sale, the remainder thereof would be greatly injured.

o pay the debts of such persons, when the personal es-ate is insufficient, by license from the Supreme Court or Court of Common Pleas where the estate shall be: *Provided however*, that no such license be granted un-ess the person applying for the same shall produce to he court a certificate, under the hands of the *overseers of the poor*, of the town in which such idle gaming person has gained a legal residence, purporting their consent and approbation to the sale of such a propor-tion of the real estate of such person, as such overseers shall be satisfied is just and equitable to discharge the *bona fide* debts of such idle person, *excluding all debts contracted by gaming*. [See selectmen, head 14.]

21. *Militia.*

1809 C. 108, Sec. 9. Overseers of the poor may give the commanding officer of a company a certifi-cate, purporting that a private soldier is unable to equip himself. [See selectmen, head 18.]

22. *Settlement.*

1793 C. 34, Sec. 1. All laws heretofore passed regulating settlements are hereby repealed; but all set-tlements already gained by force of said laws, or oth-erwise, shall remain, until lost by gaining others, in some one of the ways hereafter mentioned.

Sec. 2. Legal settlements in any town or district in this Commonwealth, shall be hereafter gained, so as to subject and oblige such town or district to relieve and support the persons gaining the same, in case they be-come poor and stand in need of relief, by the ways and means following, and not otherwise, namely:

FIRST. A married woman shall always follow and have the settlement of her husband, if he have any within this Commonwealth, otherwise her own at the time of marriage, if she then had any, shall not be lost or suspended by the marriage; and in case the wife shall be removed to her settlement, and the hus-band shall want relief from the state, he shall receive it in the town where his wife shall have her settlement, at the expense of the Commonwealth.

JUDICIAL DECISIONS.

V. 9, page 201. Dalton vs. Bernardstown. A marriage of a man having a legal settlement within the Commonwealth, gives such settlement to the wife, whether the marriage was solemnized withi nor without the Commonwealth.

Ibid. A wife does not loose her settlement, derived from her husband, by means of a divorce, except for a cause which shews the marriage to have been void.

Plymouth vs. Freetown, Pickering's Mass. Reports, v. 1, page 197. By statute of 1793 C. 34, legitimate children under age having the settlement of the *mother* acquire the settlement which she gains by another marriage.

Hanover vs. Turner. Mass. Reports v. 14, page 227. If a citizen of this Commonwealth removes into another state, for the purpose of obtaining a divorce from his wife on a ground which would not justify a divorce here; a divorce so obtained is considered as merely void, in this Commonwealth. [See under 12th mode.]

SECOND. Legitimate children shall follow and have the settlement of their father, if he shall have any within this Commonwealth, until they gain a settlement of their own; but if he shall have none, they shall, in like manner, follow and have the settlement of their mother, if she shall have any,

JUDICIAL DECISIONS.

Upton vs. Southbridge, Mass. Reports, v. 15, page 237. One who is *non compos mentis*, not having estate sufficient to give him a settlement in virtue thereof, follows the settlement of his father, as well after he comes of age as before.

Springfield vs. Wilbraham. Mass. Reports, v. 4, page 493. Upon a father's gaining a new settlement, a child of full age voluntarily living with him, does *not gain such* new settlement within the statute of 1793, *C. 34.*

Dedham vs. Natick. Mass. Reports v. 16, page 135. The settlement of a widow acquired by her after the death of her husband, is communicated to her infant children.

THIRD. Illegitimate children shall follow and have the settlement of their mother, at the time of their birth if any she shall then have within the Commonwealth; but neither legitimate or illegitimate children shall gain a settlement by birth in the places where they may be born, if neither of their parents shall then have any settlement there.

JUDICIAL DECISION.

Boylston vs. Princeton. Mass. Rep. vol. 13, p. 331. Under the statute of 1793 C. 34, an illegitimate child has the settlement of its mother at the time of its birth; and retains the same until it acquires a new one by some act of its own.

FOURTH. Any person of twenty one years of age, being a citizen of this or any of the United States, having an estate of inheritance or freehold in the town or district where he dwells and has his home, of the clear yearly income of *three pounds*, and taking the rents and profits thereof three years successively; whether he lives thereupon or not, shall thereby gain a settlement therein. (This clause repealed 1821 C. 44, and another passed—see at the close of this law.)

Decisions on the above Repealed Section.

Groton vs. Boxborough. Mass. Rep. vol. 6, p. 50. If one who has a frechold or estate of inheritance of a clear yearly income of more than *ten dollars*, by which, and dwelling in the town where it lies for *three years*, he would gain a settlement, mortgage it in fee to secure a sum, the interest of which being deducted from the annual income, reduces it below *ten dollars*, within the three years, he gains no settlement by this clause.

Conway vs. Deerfield. Mass. Rep. vol. 11, p. 327. If one appears by record and possession to be the lawful owner of an estate of the yearly income of *three pounds* taking the profits thereof three years successively, he thereby gains a settlement by this clause;

although his title may be defeasible, or if he mortgage it to his surety for the purchase money, to indemnify himself against the effects of his suretyship, he will gain no settlement by the possesion of such estate.

Boston vs. Wells. Mass. Rep. vol. 14, p. 384. To gain a settlement by this mode a citizen must dwell in the same town, *the same three years*, that he holds therein an estate of freehold of the prescribed value.

Rutland vs. Mendon. Pickering's Mass. Rep. vol. 1, p. 154. A pauper having resided in a town three years successively, a part only of which was after the passing of statute 1793 C. 34, did not gain a settlement according to the 4th mode. [See Fitchburg vs. Westminster.]

Mendon vs. Bellingham. Pickering's Mass. Rep. vol. 1, p. 153. A settlement in Massachusetts, lost by subsequent settlement gained in the District of Maine before it become a separate state, did not revive by that event.

Vol. 10, p. 411. Townsend vs. Billerica. A settlement is not lost until another is gained within this state. Therefore where A. having a settlement derived from his father, removed into New Hampshire, and there had a son born, who afterwards came into this state and had children; it was holden that these children had a settlement in this state derived from their great grandfather.

FIFTH. Any person of twenty one years of age, being a citizen of this or any of the United States, having an estate, the principal of which shall be set at *sixty pounds*, or the income at *three pounds twelve shillings* in the valuation of estates made by the assessors, and being assessed for the same, to state, county, town or district taxes for the space of five years successively, in the town or district, where he dwells and has his home, shall thereby gain a settlement.

JUDICIAL DECISIONS.

Westbrook vs. Gorham, and Templeton vs. Sterling. *Mass. Rep. vol.* 15, p. 160, 253. A settlement is

gained in the fifth mode in the statute by possession of an estate set at *two hundred dollars*, and being assessed for the same five years successively, whether the taxes so assessed be paid or not.

Templeton vs. Sterling. Mass. Rep. vol. 15, p. 253. One holding an estate under a lease for *four years*, and afterwards *a year* by sufferance of the value of *sixty pounds*, and being assessed therefor for the *five years*, does not thereby acquire a settlement under the fifth mode.

SIXTH. Any person being chosen and actually serving one whole year in the office of clerk, treasurer, selectman, overseer of the poor, assessor, constable or collector of taxes in any town or district, shall thereby gain a settlement therein.

JUDICIAL DECISIONS.

Paris vs. Hiram. Mass. Rep. vol. 12, p. 262. The time mentioned in the sixth mode, means a municipal year, or from one election to another.

Belgrade vs. Sidney. Mass. Rep. vol. 15, p. 523. A collector of taxes for a school district tax, is a collector of taxes for the purpose of gaining a settlement in the town.

Barre vs. Greenwich. Pickering's Mass. Rep. vol. 1, p. 129. To gain a settlement in the 6th mode described in the statute 1793 C. 34, a person must dwell in a town the whole year he serves as a town officer.

SEVENTH. All settled ordained ministers of the gospel shall be deemed as legally settled in the town or district wherein they are or may be settled and ordained.

EIGHTH. Any person that shall be admitted an inhabitant of any town or district at any legal meeting, in the warrant for which an article shall be inserted for that purpose, shall thereby gain a settlement therein.

NINTH. All persons, citizens as aforesaid, dwelling and having their homes in any unincorporated place, at the time when the same shall be incorporated

into a town or district, shall thereby gain a settlement therein.

JUDICIAL DECISIONS.

Bath in error vs. Bowdoin. Mass. Rep. vol. 4, p. 452. Where the territory of which a new town is composed, was before the incorporation an unincorporated place, the incorporation *ipso facto* gives every one inhabiting there a legal settlement. But where the town is formed from part of an ancient one, those settled in that place at the date of the incorporation are legally settled in the ancient town.

West Springfield vs. Greenwich. Mass. Rep. vol. 4, p. 486. An inhabitant of a town living in a part of it which by an act of incorporation is formed into a new town, and not having a settlement in the old town, gains none by such incorporation.

TENTH. Upon divisions of towns or districts, every person having a legal settlement therein, but being removed therefrom at the time of such division, and not having gained a legal settlement elsewhere, shall have his legal settlement in that town or district wherein his former dwelling place or home shall happen to fall upon such division; and when any new town or district shall be incorporated, composed of part of one or more old incorporated towns or districts, all persons legally settled in the town or towns, district or districts, of which such new town or district is so composed, and who shall actually dwell and have their homes within the bounds of such new town or district at the time of its incorporation, shall thereby gain legal settlements in such new town or district. *Provided nevertheless*, that no person residing in that part of any town or district, having no legal settlement therein, shall gain any by force of such incorporation only; nor shall such incorporation prevent his gaining a settlement therein, within the time, and by the means by which he would have gained it there, if no such division had been made.

JUDICIAL DECISIONS.

(See the two preceding Decisions.)

Westborough vs. Franklin. Mass. Rep. vol. 15, p. 254. The agreement of towns cannot affect the settlement of their inhabitants.

Westport vs. Dartmouth. Mass. Rep. vol. 10, p. 341. Where part of a town was incorporated as a new town, a pauper having a previous settlement in the old town, and whose place of residence at the time of the incorporation could not be ascertained, was holden to be chargeable to the old town.

Groton vs. Shirley. Mass. Rep. vol. 7, p. 156.—When a part of an existing town is detached, and annexed to another existing town, the inhabitants of such part having a settlement in the town from which they are detached, acquire by such annexation a settlement in the town to which they are annexed.

Windham vs. Portland. Mass. Rep. vol. 4, p. 384. Before the statute 1793 C. 34, when a town was formed of part of an existing one, the settlement of persons absent at the time of the incorporation of the new town continued in the old town, though their former dwelling was in that part, of which such new town is formed.

Fitchburg vs. Westminster. Pickering's Mass. Rep. vol. 1, p. 144. An illegitimate child acquired a settlement in A. since the statute 1793 C. 34, by being born on a farm upon which his mother lived. The farm was afterwards annexed to B. at which time the mother had removed from A. and the child was living in the part of A. not annexed to B. being then under age and chargeable to the town. *Held*, that its settlement was not in B.

ELEVENTH. Any minor who shall serve an apprenticeship to any lawful trade for the space of *four years* in any town or district, and actually set up the same therein within one year after the expiration of said term, *being then twenty one years* old, and continue to carry

on the same for the space of *five years* therein, shall thereby gain a settlement in such town or district; but such person being hired as a journeyman, shall not be considered as setting up a trade.

TWELFTH. Any person being a citizen as aforesaid, and of the age of twenty one years, who shall hereafter reside in any town or district within this Commonwealth for the space of *ten years* together, and pay all state, county, town and district taxes, duly assessed on such person's poll, or estate, for any five years within said time, shall thereby gain a settlement in such town or district.

JUDICIAL DECISIONS.

Westborough vs. Franklin. Mass. Rep. vol. 15, p. 254. A person having no estate, but paying poll tax, for *five years*, gains a settlement under the 12th mode, provided he reside in the town the *ten years*.

Ibid. By the 12th mode, if he pays the taxes assessed on him, it is immaterial whether he owns the estate or not, provided he be assessed for it as his own.

Wrentham vs. Attleborough. Mass. Rep. vol. 5, p. 430. A citizen having taxable property, and being able to pay the taxes assessed on him, gains a settlement in a town by dwelling there for *ten years together*, and half the time paying state and town taxes, although he is not assessed to county taxes.

Charleston vs. Boston. Mass. Rep. vol. 13, p. 468. One residing in a town more than ten years, paying taxes more than five of them, for a small piece of land, which the owner of it permitted him to occupy at a small rent for one year, and which he continued to occupy for the other years without any express contract, and was too poor to pay the rent, was holden to have acquired a settlement in the town.

East Sudbury vs. Waltham. Mass. Rep. vol. 13, p. 460. One having his legal settlement in A. resided ten years in B. and paid taxes there more than five years of those ten; but before the expiration of the

ten years he became poor, and was relieved by the overseers of A., but was not removed. It was holden that he acquired no settlement in B.

Cambridge vs. Charlestown. Mass. Rep. vol. 13, p. 501. A citizen of Vermont, having resided in a town in this state ten years,and having paid taxes more than five years, acquired a settlement in such town, although he left his wife and children upon his farm, in Vermont and occasionally visited them there, and once tarried with them five or six months during the term.

Andover vs. Chelmsford. Mass. Rep. vol. 16, p. 236. The payment of highway taxes for five years, with the requisite residence of ten years, gives a settlement by the 12th rule of the statute.

Billerica vs. Chelmsford. Mass. Rep. vol. 10, p. 394. A pauper who had resided in a town from 1793 to 1805 inclusive, (except that he left the town in 1795 without an intention of returning, and was absent about three months, and paid a poll tax for the year 1794 to 1797 inclusive, and also for the year 1803 and 1805,) was holden not to have acquired a settlement in such town.

Manchester vs. Boston. Mass. Rep. vol. 16, p. 230. A. a citizen of the colony of Connecticut in the year 1759,removed to the Province of Nova Scotia carrying with him B. his infant son. In 1797, B. removed from Nova Scotia to Manchester in this state, where he purchased real estate which he occupied for more than ten years, paying all the taxes assessed upon it. It was holden that he was an alien, and therefore acquired no settlement in Manchester.

Sudbury vs. Stow. Mass. Rep. vol. 13, p. 462.—One residing in a town more than ten years, paying taxes for more than five of them for a small piece of land, which the owners of it permitted him to occupy at a small rent for one year, and which he continued to occupy for the other years without any express contract, and was too poor to pay the rent, was holden to *have acquired a settlement* in the town.

THIRTEENTH. *Substituted for the Fourth.* 1821 C. 94, Sec. 2. Any person of twenty one years of age being a citizen of this, or any of the United States, having an estate of inheritance or freehold in any town, district, or city, within this Commonwealth, and living on the same three years successively, shall thereby gain a settlement in the same, so as to entitle him or her to support therein, in case he or she becomes poor, and stands in need of relief.

23. *Ancient Settlements,* or settlements gained previous to Feb.* 11, 1794. [Statute of 1793 C. 34.]

NOTE. 1793 C. 34, Sec. 2. Every legal settlement, when gained, shall continue till lost or defeated by gaining a new one, and upon gaining such settlement, all former settlements shall be defaulted and lost.

4 W. and M. 1692 C. 13, Sec. 9. (Repealed.) Persons gained a settlement under this Act by dwelling in a town *three months* without being warned to depart.

JUDICIAL DECISIONS.

Shirley vs. Watertown. Mass. Rep. vol. 3, p. 322. A warning of a pauper and his family under this Act is sufficient to prevent the wife and children of a pauper from gaining a settlement.

Hamilton vs. Ipswich. Mass. Rep. vol. 10, p. 506. A warning under this Act to avoid gaining a settlement by a pauper, was without effect, unless, either in the warrant or the return thereof the length of the time was stated, that the party warned had resided in the town.

Berkley vs. Somerset. Mass. Rep vol. 16, p. 454. A child born to one who had been warned to depart the town, under this Act, gained a settlement in such town, by a year's residence after coming of age, without being warned to depart. [See next decision.]

Braintree vs. Hingham. Pickering's Mass. Rep. vol. 1. p. 245. *Hearsay evidence* is not admissible to prove that a person was warned to leave town, pursuant to the act of 4 W. and M. C. 13.

Leav. Sum. 5, 6, 9. Between the years 1692 and 1700—1, a settlement might be gained by *marriage*, as follows:—A woman by marrying, acquired the settlement of her husband, if he had any in the Commonwealth, if not she retained the one she had at the time of marriage.—By *parentage*. Legitimate children had the settlement of their parents.—By *birth*. The birth place of il-

* *The following laws are all repealed, but continue in force as it respects settlements already gained.*

legitimate children was the place of their settlement: Bastards being considered as the children of nobody, and at the same time children of the people, such town was held to maintain such as happened to be born within its limits. By slavery [See post, under statute of 2 Anne C. 2.] By residence of three months without being warned to depart. [See Judicial Decisions under 7 G. 3.

12 and 13 W. 3. C. 10. Anno 1700—1. (Repealed 1789 C. 14.) No persons whatsoever, coming to reside and dwell within any town, other than freeholders or proprietors of land in such town, or those born, or that have served an apprenticeship there, and have not removed, and become inhabitants elsewhere, shall be admitted to the privilege of election in such town, though otherwise qualified, unless such person shall first make known his desire to the selectmen thereof, and obtain their approbation, or the approbation of the town, for his dwelling there.

Nor shall any town be obliged to be at a charge for the relief and support of any person residing in such town, in case he or she stand in need, that are not approved as aforesaid; unless such person or persons have continued their residence there by the space of *twelve months* next before, and have not been warned in manner as the law directs, to depart and leave the town.

JUDICIAL DECISIONS.

Hamilton vs. Ipswich. Mass. Rep vol. 10, p. 508. The Act of 4 W. and M. C. 13 [preceding] was not altered by this Act, excepting extending the time to *twelve months*. [See the Act preceding—see Judicial Decision under 2 Anne C. 2.]

Freetown vs. Taunton. Mass. Rep. vol. 16, p. 53. The common law with respect to settlements between the years 1701 and 1767, prevailed here.

Leav. Sum. 9. Between the years 1701 and 1767, a settlement might be gained by marriage, parentage, birth, slavery, twelve months residence without warning, or approbation of the town, or approbation of the selectmen. [See Ante under 4 W. and M. 1692—see Judicial Decisions under 7 G. 3.]

Freetown vs. Taunton. Mass. Rep. vol. 16, p. 53. Minor children having the settlement of their mother, do not, by the common law acquire a new settlement gained by her marriage, although they remove with her to the place of her settlement.

Statute of 2 Anne, Chap. 2. Anno 1703 entitled an Act relating to mulatto and negro slaves. (Repealed 1789 C. 14.)

JUDICIAL DECISIONS.

Winchindon vs. Hatfield. Mass. Rep vol. 4, p. 127. Slavery was introduced into this country soon after its first settlement, and was tolerated until the ratification of the Constitution. [1780] The slave was the property of his master and was transferrable like a chattel by gift or sale, and was assets in the hands of his executor or administrator: and the *issue* of a *female* slave, according to the maxim of civil law, was the property of her master.

Ibid 128. When the freedom of a slave was obtained in a course of legal proceedings, the master was not holden for his future support, if he became poor.

Ibid. By virtue of the first article of the declaration of rights, slavery in this state is no more. In an action by the inhabitants of Littleton brought to recover the expenses of maintaining a negro, against Tuttle, his former reputed master, tried at the October Term in Middlesex, 1796, the opinion of the court was that a negro born in the state before the Constitution [1780] was born free, although born of a female slave It is however *very certain*, that the general practice and common usages had been opposed to that opinion.

The master of a slave was obliged to support him, and was entitled to his services. The slave therefore could not acquire a settlement in his own right; but he might through age or disease, become useless, when the property of a master who was a pauper. In this case his maintenance would devolve on some town, and some settlement must be assigned to him, to designate the town subject to the burthen. He had consequently a derivative settlement from his master, and whenever the master acquired a new settlement, it was accompanied by the settlement of the slave, who could not be separated from his master.

Stockbridge vs. West Stockbridge. Mass. Rep. vol. 12, p. 400. Where a citizen of the province of Massachusetts Bay for a valuable consideration, purchased the use of a slave from his owner, living in New-Jersey, for ten years, and the slave lived ten years in the service of such citizen; it was holden that he gained no settlement here in the right of the purchaser, or as derived from him.

Winchindon vs. Hatfield. Mass. Rep. vol. 4, p. 129. Slaves were not within the statutes of 4 W. and M. or the 12 and 13 W. 3 C. 10, making the warning out of poor persons within the year necessary to prevent a settlement; nor within the statutes of 10 G. 2, C. 3, and 13 G. 2. C. 1, which direct every inhabitant of a town, receiving any inmate, &c. to give notice to the selectmen: and not within the fourth section of the statute of 7 G. C.3, which provides that no settlement shall be gained by residence, as that section extends only to persons who were competent to gain a settlement by residence if not warned out.

Ibid. Mass. Rep. vol. 4, p. 123. Before the revolution the settlement of a slave always followed that of his master.

Lanesborough vs. Westfield. Mass. Rep. vol. 16, p 74. The children of slaves under the provincial government, not being slaves, derived no settlement from their parents, nor from the master of their parents.

Andover vs. Canton. Mass. Rep. vol. 13, p. 547. The children *of slaves in* the province derived no settlement from their parents. *Indians residing* within the limits of a town, and being under the

guardianship of persons appointed by government, have no legal settlement in such town.

10 Geo. 2, Chap. 3, Anno 1736, Prohibits inhabitants from entertaining strangers. (Repealed 1789 C. 14)

13 Geo. 2, Chap. 1, Anno 1739. (Repealed) No town shall be obliged to be at charge for the support of any person resident in such town that hath not continued there so long as to become an inhabitant, [*twelve months without being warned out*] unless he have obtained the approbation of the town at a meeting of the inhabitants regularly assembled, or the approbation of the selectmen to be given in *writing* under their hands or a major part of them, at their meeting. for his dwelling there: And no act of the selectmen or assessors in writing or assessing any such person, shall subject any such town to any expenses for his support.

NOTE. This act was principally explanatory of 12 and 13 W. 3, C 10, preceding.

*7 Geo. 3. Chap 3, Anno 1767. (Repealed.) From and after the 10th of April 1767, no person whatever coming to reside or dwell within any town shall gain an inhabitancy in such town by any length of time he or she may continue there without warning, unless such person shall first have made known his or her desire to the selectmen thereof, and obtained the approbation of the inhabitants for his dwelling there, nor shall any town be obliged to be at the charge for the relief and support of any person residing in such town. in case he or she stand in need, that have not been approved as aforesaid.

JUDICIAL DECISIONS.

Abington in error vs. Boston. Mass. Rep. vol. 4, p. 312. Before the statute of 7 Geo 3, a mariner gained a settlement in a town, by making his home therein, and following the business of his profession therefrom.

Granby vs. Amherst. Mass. Rep. vol. 7, p. 1. After the Act of 7 Geo. 3 and before the statute of 1789 C. 14, no settlement could be gained, but by the approbation of the town at a general meeting

Newton vs. Braintree. Mass. Rep. vol 14, p. 382. Under the act of 7 Geo. 3. Illegitimate children acquired no settlement by birth but had the settlement of their mother.

Chelsea vs. Malden, and Bath in error vs. Bowdoin. Mass. Rep. vol. 4, p. 135 and 453. By the statute of 7 Geo. 3, no settlement could be gained by residence or birth.

West Springfield vs. Granville. Mass. Rep vol 4, p. 486. By the act of 7 Geo. 3. no person could, after the 10th of April 1767, gain a settlement by a residence for any length of time in any

* *Leav Sum 20 This was a temporary act, and is said to have expired, for a short time, but was soon revived* and *continued in force until June 23,* 1787.

town, without the approbation of the inhabitants given in town meeting.

Hardwick vs. Raynham. Mass. Rep. vol. 14, p. 363. Where one *before* the 10th of April 1767, had hired a house, but before the removal of his family into it had gone abroad, and in his absence his family removed into it and were not warned to depart within twelve months from such removal, he gained a settlement in the town, in which such person was situated.

Taunton vs. Plymouth. Mass. Rep. vol. 15, p. 203. A male pauper being married while under age, was not thereby so emancipated as to acquire a settlement, by a year's residence without warning out, prior to the act of 7, G. 3.

Somerset vs. Dighton. Mass. Rep. vol. 12, p. 393. The laws of the Province, previous to April 1767, which required the warning of persons out of a town, to prevent their gaining a settlement, did not extend to minors, although illegitimate; nor did the provisions of the statute of 1789 C. 14, relative to the same point, establish a new rule on the subject.

Statute 1789, C. 14. Passed June 23, 1789. [Repealed 1793, C. 34.]

Sec. 1. All persons, citizens of this Commonwealth, who, before the 10th day of April 1767, resided or dwelt within any town or district in the then Province of Massachusetts Bay for the space of one year, not having been warned to depart therefrom according to law, or who, since the same 10th day of April, have obtained, the approbation of the town or district at a general meeting of the inhabitants for his dwelling there, or who have obtained a legal settlement in such town or district, by birth, marriage or otherwise, and have not afterwards gained a settlement elsewhere, in this, or some other of the United States, shall be deemed and taken to be inhabitants of the same town or district, to every intent and purpose whatever. And every person being a citizen of this Commonwealth, who shall be seized of an estate of freehold, in any particular town or district, of the clear annual income of *three pounds*, and shall reside thereon, or within the same town or district, occupying and improving the same in person, for the space of two whole years, or who, after the age of twenty one years, shall reside and pay a town tax, for the term of five years, successively, or shall reside in such town or district, for the space of two years* successively, without being warned to depart the same, in manner hereafter provided, shall be deemed and taken to be an inhabitant of the same town or district.

Sec. 2 Any citizen of this Commonwealth, who shall have and obtain the vote of any town or district at a regular meeting, to be admitted and received an inhabitant thereof, shall, from and after the passing such vote, in case such citizen shall there

* *Time extended by the statutes of* 1790 *C.* 39, 1791 *C.* 44, 1792 *C* 69, *for which see Post.*

reside and dwell, be deemed and taken to be an inhabitant of the same.

Sec. 3. Every woman, by intermarrying with an inhabitant of any town or district, shall by such marriage be deemed and taken to be an inhabitant of the same town or district with her husband; and children born in wedlock at the time of their birth, and afterwards, shall be deemed and taken as inhabitants of the same town or district with their parents; and children otherwise born, shall be deemed and taken to be inhabitants with the mother, until they shall have obtained a legal settlement or habitancy in some other town or district; but no person shall have more than one place of legal settlement at one and the same time, but upon obtaining a new place of settlement, shall be deemed and taken voluntarily to have relinquished any former one. *Provided always*, That no person committed to prison, or lawfully detained in any town or district, or who shall come or be sent for nursing, education, or support, or to learn any trade or mystery, or who shall come or be sent to any physician or surgeon, to be cured of any disorder, shall by remaining in such town or district for any length of time, in consequence thereof, obtain a settlement therein.

Sec. 4. Empowers selectmen to warn out persons coming to reside.

Sec. 5. Provides that the warrant shall be in writing under the hands and seals of the selectmen or major part of them, directed to a constable.

The town clerk must record the warrant, and the return of the constable made therein in the town book. [For form of warrant, see the statute.]

Sec. 6. Repeals all former laws.

JUDICIAL DECISIONS.

Windham vs. Portland. Mass. Rep. vol. 4, p. 384. A seizen of a freehold estate in right of his wife is sufficient to give one a settlement under the statute of 1789 C 14.

Ibid. No settlement could be gained in any town by that statute by residence and payment of taxes for five years, the statute not having continued so long in force.

Granby vs. Amherst. Mass. Rep. vol. 7, p. 1. The personal occupation of lands, required by the statute of 1789 C. 14, includes an occupation by others under the direction and control of the owner: But lands leased are not within the statute.

Ibid. A siezen and occupation by a minor, gave a settlement by that statute, although his lands were in the care of his guardian.

Ibid. A student of a college does not change his domicil by his occasional residence at the college.

Petersham vs. Dana. Mass. Rep. vol. 12, p. 429. Under the statute of 1789 C. 14, the settlement of an illegitimate child followed that of his mother, and changed with it.

Salem vs. *Andover.* *Mass. Rep.* vol. 3. p. 436. A settlement

was gained by two year's occupying of a freehold under the statute of 1789 C. 14, although the occupant was warned to depart within the two years.

Statute of 1790 C. 39, passed March 9, 1791, in addition to he statute of 1789 C. 14. [Repealed Feb. 11, 1794—statute 1793 C 34.]

No person shall be deemed, or taken to be an inhabitant of any town or district, by virtue of residence therein, unless he or she shall have res ded in the same, for the space of three full years without being warned to depart.

Statute of 1791 C. 44, passed March 6th, 1792, in addition to the statute of 1789 C. 14 [Repealed Feb. 11, 1794, statute 1793 C. 34.]

No person shall be deemed or taken to be an inhabitant of any town or district, by virtue of residence therein, unless he or she shall have resided in the same, for the space of four years, from the time of passing the act to which this is an addition, without being warned to depart.

Statute of 1792 C. 69, passed March 22, 1793, in addition to the statute 1789 C. 14. [Repealed Feb. 11, 1794, statute 1793 C. 34.]

No person shall be deemed or taken to be an inhabitant of any town or district, by virtue of residence therein, unless he or she shall have resided in the same for the space of five years from the time of passing the act to which this is an addition, without being warned to depart.

OVERSEERS OF WORK HOUSES.

Of these officers no oath is required.

1788 C. 30, Sec. 1. When any town shall see meet, they are fully authorized and empowered to erect houses for the employment of idle persons, who neglect and refuse to exercise any lawful calling or business to support themselves and families, and for the poor and indigent that want means to employ themselves; and the towns aforesaid, as well as those who have already erected such houses, are hereby empowered, at their annual meeting for the choice of town officers, to choose three, five, seven, or more overseers of said house, who shall have the inspection and government thereof, with full power of appointing a master, and needful assistants, for the immediate care and

oversight of the persons received into, or employed in the said house; which overseers, once in every month, and at other times as occasion shall require, shall assemble together for the purpose of determining the most eligible method of discharging the duties of their office: And at their stated monthly meetings shall have power to make needful orders and regulations for such house; which orders shall be binding until the next public meeting of the inhabitants of such town, to whom such orders shall be presented for approbation; and when by them approved, shall be obligatory, until revoked by the town.

Sec. 2. When any number of towns shall agree (at their joint charge, and for their common benefit) to erect or provide a workhouse for the employment of persons residing in such towns, that are indigent or idle, or to purchase land whereon to erect such house, or for the accommodation thereof, they shall be and hereby are vested with power and authority thus to do; and the ordering and governing the same, making the necessary repairs thereof, appointing a master and other assistants, and the power of removing him or them from their respective offices or trusts, for irregular behavior, incapacity, or for other sufficient cause, shall be vested in overseers, to be from year to year specially chosen by the several towns, at their annual meeting for the choice of town officers, each town to choose three unless all the towns engaged in the undertaking, shall agree upon a different number: And in case of the death of an overseer, or his removal from the town for which he was appointed, the vacancy made thereby may be supplied by such town, at any other public meeting: And if any town concerned shall neglect to choose such overseers, in such case the person or persons chosen in the other towns may proceed in all affairs of the said house, any such neglect notwithstanding.

Sec. 3. There shall be stated quarterly meetings of all the overseers, on the first Tuesday of the months of

January, *April*, *July*, and *October*, *annually*, to be held at the workhouse, in order to inspect the management, and for directing the business thereof; and besides those stated meetings, intermediate ones, to be held at the workhouse, may be called by the overseers of any town concerned; due notice of the time and occasion thereof being given to the rest, in such way and manner as shall be agreed upon by the overseers, at any general stated meeting: And the said overseers, when duly assembled, may choose a moderator; and at their first general meeting annually, after their appointment, they shall likewise choose a clerk, to enter and record all votes and orders that shall be made and passed by the overseers, who shall be sworn to the faithful discharge of his trust.

Sec. 4. The overseers, for the time being, at a general quarterly meeting, provided one half, at the least, of the whole number chosen are present, shall have full power and authority to make all reasonable orders and by laws, not repugnant to the laws of this Commonwealth, for the ordering and regulating the said house, and the affairs thereof; which orders and by laws shall continue and be in force until altered, annulled, or reversed by them or their successors in office, and may likewise agree with the master or other assistants, and order meet allowance for their care and service; and all other matters of less importance relating to the said house, may be transacted at any other meeting duly notified, when only one third part of the overseers are present, subject nevertheless to be altered or reversed, at any general stated meeting.

Sec. 5. The yearly stipend, or allowance, to the master and assistants, over and above what is provided for by this Act, for their care and trouble, together with the charge of keeping the house in repair, shall be paid by the several towns concerned, in proportion as they are taxed to the government, at the time the expense is incurred, or in such other proportion as all the towns concerned shall agree upon: And if any town

or towns shall refuse or neglect to advance or reimburse their respective proportions of such allowance, or other charges before mentioned, after they shall have been stated and adjusted by the overseers, the same may be recovered of such delinquent town or towns, in any court proper to try the same, by action to be brought by such person or persons, as the overseers shall, in writing, appoint for that purpose.

Sec. 6. Any two or more of the overseers, in any town already provided with such house, and any two or more of the overseers, in any town that, either by themselves, or in conjunction with other towns, shall hereafter erect a work house, be and they are hereby authorized, empowered and directed to commit [see Form 110] to such house, by writing, under the hands of the said overseers, to be employed and governed according to the rules and orders of the house, any person or persons residing in such town, that are in this Act declared liable to be sent thither: *Provided*, That no greater number of persons, belonging to any town, be received into the house, than such town's proportion of the said house, to be allotted them, can accommodate, when the receiving them will exclude or incommode such as belong to other towns; and an order of commitment from two or more overseers directed to the constable of the same town, shall, by such constable, be obeyed and executed.

Sec. 7. The persons who shall be liable to be sent unto, employed and governed in any work house erected or to be erected, by any one or more towns, in pursuance of this Act, are, all poor and indigent persons that are maintained by, or receive alms from the town; also all persons able of body to work, and not having estate or means otherwise to maintain themselves, who refuse or neglect so to do, live a dissolute, vagrant life, and exercise no ordinary calling or lawful business, sufficient to gain an honest livelihood, and all such as, having some *ratable estate*, but not sufficient to qualify them to vote in town affairs, do neglect the due care

and improvement thereof, and such as spend their time and property in public houses, to the neglect of their proper business, or by otherwise mispending what they earn, to the impoverishment of themselves and their families, are likely to become chargeahle to the town, or to the Commonwealth.

Sec. 8. If any town shall refuse or neglect to provide its proportion of the needful furniture for such house, or the materials, implements or other necessary apparatus for carrying on the work there to be performed, according to their agreement, or as shall be directed by the overseers, such town shall be deprived of the privilege of sending any person thither, until they shall comply with such agreement or direction.

Sec. 9. Besides the aforesaid proportion of materials and other things to be found by the towns concerned, each town may likewise provide such other materials and tools for work, as the overseers for such town shall determine any person, by them committed to the said house, can be employed about more advantageously: And the master of the house shall receive such materials and tools, and keep them separate and apart from those sent from any other town, and shall be accountable to the overseers of each town concerned, as well for the prime cost, as for all profits and earnings that shall be made by the labor of those belonging to such town, under his care, and shall keep a register of the names of the persons committed to such work house, and of the towns to which they respectively belong, with the time of their being received into, and discharged therefrom, and of their earnings, that the same may appear to any of the overseers, whenever they shall incline to inspect them: And all controversies between the master or keeper of such house, and the overseers of any town, touching his accounts or other his affairs whatever, respecting the work house, may be determined by the overseers of the house at a general or quarterly meeting.

Sec. 10. No town shall be chargeable for the relief

or support of any person committed to the said house who was not sent thither by the overseers belonging to such town, nor shall any person orderly committed to the said house, be discharged therefrom, but by the overseers that made the commitment, or by the overseers at a general or quarterly meeting, or otherwise, by the Court of Common Pleas in the same county, upon application to them made for that purpose: And every person thus committed, if fit and able to work, shall be kept diligently employed in labor, during his continuance there: And in case the person so committed, shall be idle and not perform such reasonable task or stint as shall be assigned, or shall be stubborn and disorderly, they shall be punished according to the orders that shall be made for ruling, governing and punishing the persons there committed, not repugnant to the laws of the government.

Sec. 11. When any foreigner or other person, not a legal inhabitant of any town within this Commonwealth, shall become idle or indigent, it shall be the duty of the overseers of the town in which such person resides, or any two of them, to commit such idle or indigent person to the work house belonging to the same town, or in which such town is interested; and the person or persons so committed, shall be under the care of the keeper of such house, and be employed, if capable of labor, in the same way and manner as is herein before directed, and shall be subject to the same rules and regulations as others committed to said house. And such overseers shall keep a fair account of the charge of supporting such idle or indigent person from time to time, and shall exhibit the same once in every year, at the least, to the General Court, for allowance and payment, deducting therefrom the amount of such person's earnings.

Sec. 12. One third part of the profits or earnings of the work, done by the persons detained in such house, shall be to the master, for and towards his support, over and above such further annual stipend as the

overseers may allow him: And the prime stock, together with the other two thirds of the profits, shall be disposed of by the overseers of the respective towns, to whom it belongs, either to the master towards his services, or for the support of the families of the persons there detained, if any such they have, or otherwise for the use of such town, as occasion shall require.

Sec. 13. *Discontinuance.*—Any work house may be discontinued, or applied to any other use, whenever the towns concerned, shall agree thus to do. This act does not abridge the town of Boston or the overseers of the poor thereof of any privileges granted them by a law passed 1735—and the said act is hereby confirmed. Also of Salem, Jan. 26, 1773. And all other acts relative to work houses erected in any particular town previous to Jan. 10, 1789, are confirmed.

TOWN TREASURER.*

HEADS.

1 Oath. 2 Choice. 3 Assessors refusing to serve or take the oath. 4 Constable. 5 Taxes and collection of Taxes. 6 When the Treasurer is Collector. 7 Prosecutions. 8 Fines collected by Justices of the Peace. 9 Strays &c. 10 Swine. 11 Weights and Measures. 12 Wolves. 13 Oysters &c. 14 Militia exempt money.

1 *Oath.*

W. 3, C. 2. Anno 1699. By the provincial law of 1699, town treasurers are to be sworn before a Justice of the Peace, to the faithful discharge of their trust; and this is the only law which requires them to be sworn.

* For treasurer's duty respecting school district taxes, see *school districts*, head 3. Likewise,

For their duty to request the calling of a town meeting in certain *cases*, see page 88.

2. *Choice.*

1785 C. 75, Sec. 2. He is chosen at the annual town meeting, and if he refuses to accept, he forfeits *thirty shillings.*

3. *Assessors refusing to serve or take the Oath.*

1785 C. 50, Sec. 1. If any assessor after being chosen, and notified to take the oath of an assessor in the way and manner other town officers are notified and summoned, shall neglect to appear, or appearing shall refuse to be sworn, he shall forfeit and pay the sum of five pounds, to the use of the poor, to be recovered by the respective treasurers, before the Court of General Sessions of the Peace, for the county in which such town or district lies by complaint, which in substance shall be as follows, [see Form 111.] and the same form, *mutatis mutandis*, may be used in the recovery of any penalty which may be incurred by any person chosen as town, district, plantation, parish or precinct officer who shall neglect to take the oath of office as required by law. [See Ante head 1, under assessors.]

4. *Constable.*

1785 C. 75, Sec. 3. He may apply [see Form 112,] to the Court of Sessions to summon before him one who refuses to serve as constable. [See constable, head 1.]

5. *Taxes and Collection of Taxes.*

1785 C. 46, Sec. 6. If the constable or collector of any town, district, plantation, precinct or parish, to whom any county, town, district, plantation, precinct or parish, rates or assessments shall have been committed to collect, shall be remiss [see page 89.] in his duty by neglecting to collect and pay in the same to the treasurer, or receive of such county, town, district, plantation, precinct or parish, by the time fixed in the warrant to him directed, such treasurer is hereby empowered *to issue his* warrant, returnable in ninety days

under his hand and seal, directed to the sheriff of the county or his deputy, who are hereby respectively directed and empowered to execute the same, to cause such sum or sums of money as such constables or collectors hath not paid in, to be levied by distress &c. and the warrant shall be in substance as follows, [see Form 112.]

Sec. 7. Where the same warrant shall necessarily be returned unsatisfied or satisfied in part, only, such treasurer may issue an *alias*, for such sum as may remain due on the return of the first, and so *toties quoties*.

The sheriff or deputy sheriff, that shall make default in accounting for and paying in the monies he may have collected, and received of any deficient constable or collector by execution or warrant of distress as aforesaid, or in making returns of his doing within reasonable time as aforesaid, shall be liable to pay the whole sum in such execution or warrant of distress mentioned, and all such treasurers are hereby authorized and empowered to make out their warrants,*directed to the coroner of such county, where any sheriff or his deputy is deficient as aforesaid, requiring them respectivly as aforesaid to distrain as for the same, upon estate, real or personal, of such deficient sheriff or his deputy, as is before directed herein, with respect to the sheriff or his deputy, making distress upon the estate of deficient constables or collectors; which warrant such coroner is hereby empowered and required to execute.

Sec. 8. When any execution or warrant of distress issued by a treasurer to the sheriff or his deputy or a coroner, shall be levied on the lands and tenements of any deficient constable, sheriff or deputy, and the produce of such lands and tenements shall not satisfy the sum or sums, mentioned in the said warrant or warrants of distress, together with reasonable charges arising thereon, then the treasurer issuing such war-

*See Form 113.

rant shall issue an *alias* execution or warrant of distress for such remaining sum or sums,, and the officer executing the same, for want of estate shall take the body of such constable, collector or deputy sheriff and commit the same to the common gaol of the county whereunto he belong, until he shall pay the same.

6. *When the Treasurer is appointed Collector.*

1815 C. 130, Sec. 1. The inhabitants of any town may at their meeting in the month of March or April annually, appoint their treasurer a collector of taxes in their said town; and the treasurer so appointed shall be, and hereby is empowered to substitute and appoint under him such number of deputies or assistants as may be necessary, which deputies or assistants so appointed, shall give bonds for the faithful discharge of his duty, in such sums, and with such sureties as the selectmen of such town shall think proper; and the said collector and his deputies shall have the same power as one vested by law in collecting of taxes, chosen by virtue of the Act now in force for that purpose.

Sec. 2. All such inhabitants of the said town who shall voluntarily pay the said collector or his deputy, within thirty days next after the delivery of their tax bills the amount of their respective taxes, shall be entitled to an abatement of such sum as said towns at their annual meeting may agree upon, on the amount of their said taxes; and such inhabitants as shall voluntarily pay their taxes to the said collector or his deputy, within sixty days after the delivery of their tax bills, shall be entitled to an abatement of such sum as may be agreed upon as aforesaid, on the amount of their said taxes; and all such inhabitants as shall voluntarily pay to the said collector or his deputy, within one hundred and twenty days after the delivery of their tax bills, shall be entitled to an abatement on the amount of their tax bills, of such sums as may be agreed upon as aforesaid.

Sec. 3. All such taxes as shall not be paid in agreeably to the *second section* of this act, shall and may be col-

lected by the collector or his deputy or deputies agreeable to the statute of 1785 C. 70, as also all taxes from persons whose credit they may consider doubtful at any time within the time specified in said second section.

For Sec. 4, see page 86.

1817 C. 69. It is lawful for any town treasurer who may also have been chosen a collector as well as treasurer by the statute of 1815 C. 130, to issue his warrant to the sheriff of the county or his deputy, or to any constable of the same town, directing them to distrain the person or property of any person or persons who may be delinquent in the payment of taxes after the expiration of the time fixed, for the time of payment thereof, by any vote of such town, subject to the same provisions as are directed by the act regulating the collection of taxes in the town of Boston, passed *the 12th day of March, in the year of our Lord one thousand eight hundred eight*, (1807 C. 134.)

7. *Prosecution.*

1797 C. 14. The treasurer of the Commonwealth, the treasurers of counties, towns, parishes, and other corporations for the time being, be and hereby are authorised and empowered, in their own names and capacities, respectively to commence and prosecute to final judgment and execution, any suit or suits at law, upon any bonds or notes or other securities which have been or shall be given them or their predecessors in said capacity; and to prosecute to final judgment and execution any suits which have been or shall be commenced by their said predecessors in said capacity, during their continuance in office, and pending at the time of their removal therefrom.

1785 C. 28, Sec.4. When any trespass shall be committed on any buildings or inclosures belonging to any county, town, or parish, the county, town and parish treasurers for the time being, shall be and hereby are severally authorised to sue for the damage done to the public buildings or inclosures of their county, town

or parish, respectively; and where any public buildings are owned partly by the town and partly by the county, in that case, county or town treasurer, whoever may first institute an action, may prosecute for damages thus sustained. *Provided nevertheless*, That nothing in this act shall prohibit any surveyor of highways moving any incumbrances in any public way nor be construed to prevent any prosecutions for theft, where theft is committed.

8. *Fines collected by Justices of the Peace.*

1783 C. 51, Sec. 4. Justices of the Peace shall account annually with the treasurer of the Commonwealth, the treasurer of their respective counties and the town treasurer, as the case may be, for all fines by them received or imposed, upon pain of forfeiting the sum of ten pounds, to be sued for and recovered by the treasurer of the Commonwealth, the county or town treasurer for the time being, to which the said fines may respectively belong.

9. *Strays, &c.* *(see page 21.)*

10. *Swine,* *(see Hogreeve.)*

11. *Weights and Measures.**

1799 C. 60. Sec. 1. Winchester measures, as to contents, are the standard for measures in this Commonwealth.

Sec. 1 & 3. It is the duty of the treasurer of each town and district to procure at the expense of the town or district, and ever after to preserve, as town or district standard, a complete set of the following beams, weights and measures, viz.

One half bushel, the diameter to be not less than 13 & 1-4 inches, containing 16 quarts; one peck, the diameter to be not less than 10 & 3-4 inches, containing 8 quarts; one half peck, diameter not less than 9

* Sealing weights and measures in Boston, see statute 1814 C, 50.

inches, containing 4 quarts. The admeasurement to be made in each instance withinside of the measure.

1800 C. 54. The above measures may be made of copper, pewter, or wood.

1799 C. 60, Sec. 1. Also one ell, one yard, one set of brass weights, to four pounds, computed at sixteen ounces to the pound, with fit scales and steel beams.

Sec. 3. Also a good beam and scales, and Troy Weight from the lowest denomination to the size of eight ounces, with the weight of each weight, and the measure of each measure, marked or stamped thereon, and sealed.

Also one 56lb. weight, one 28lb. weight, and one 7lb. weight made of iron.

Sec. 1. Also one ale quart, one wine gallon, one wine half gallon, one wine quart, one wine pint, one wine half pint, and one wine gill, to be made of copper or pewter.

Sec. 3. All of which he shall cause to be well tried, proved and sealed as aforesaid, either by the treasurer of this Commonwealth, or the county within which town or district shall be situated, before the first day of January 1801,* and once in every ten years afterwards.

And the state or county treasurer shall be entitled to and receive of each town or district treasurer, a fee of three cents for the first sealing any weight, measure, scale or beam, and two cents for each and every after sealing of the same, and it shall also be the duty of town and district treasurers, to procure at the expense thereof and to preserve a proper town or district seal.

Treasurers neglecting their duty in this, forfeit *one hundred dollars*, half to the poor of the town, and half to him or them who shall sue for the same, to be recovered by action of debt with costs.

Sec. 4. And the treasurers of such towns and district,

*Time extended—1800 C. 54.

as shall as aforesaid vote to have more than one sealer of weights and measures within their town or district, shall at the expense thereof procure, and shall preserve the necessary additional seals, weights and measures before specified, so that each sealer in such town or district may have complete sets of the same, under like penalties and forfeiture as are provided in the third section of this act.

1803 C. 141, Sec. 3. It shall be the duty of the several town and district treasurers, at the expense of their several towns and districts, within one year after the first day of July A. D. 1804, and once in every ten years afterwards to have their town and district standards of Troy Weight compared, proved and sealed by the treasurer of this Commonwealth, or of the county wherein such town or district shall be, or some person thereto specially authorized by said state or county treasurer.

Law passed Feb. 20, 1824. All measures by which salt or grain shall be sold in addition to being conformable as to capacity and breadth to the public allowed standard established by law, shall have a bar of iron across the centre thereof, at the top, to be approved by a sealer of weights and measures; and bar or standard of like metal, from the centre of the aforementioned bar, to the bottom of the measure, to be in like manner approved; and all such measures shall be filled by shoveling such salt or grain into the same; and the striking thereof shall be always lengthwise of said bar. And if any person shall sell or expose to sale any salt or grain in any other measure, or shall fill or strike such measure in any other manner than is herein provided, such person shall forfeit and pay fifty cents for every bushel of salt or grain measured, filled, or stricken contrary to the provisions of this act: to be recovered by action of the case, or by complaint with costs before any court of competent jurisdiction: *Provided however*, That salt may be measured from vessels in

such measures as are used by the government of the U. States, and that nothing in this act shall prevent the measuring of salt in tubs, or any other proportional parts of hogsheads, without bars, as may be agreed by the city council of any city, or by any town meeting legally held; and provided always, that nothing in this act shall be deemed to have effect or operation in any town or city, except such as at legal meeting of the inhabitants of such town, or of the city council, of such city, shall declare that the same shall have effect and operation therein; nor until one month after such declaration shall have been published in some newspaper, printed in such town or vicinity or its vicinity, where no newspaper is printed therein.

13. *Wolves, (see page 66.)*

14. *Oysters, &c. (see page 60.)*

15. *Militia exempt Money.*

Act passed Feb. 11, 1823, Sec. 7. Treasurers are to keep a distinct and separate account of the money which shall be paid by conditional exempts.

CONSTABLE.*

OATH.†

1785 C. 70, Sec. 17.] *WHEREAS You, A. B. are chosen constable within the town of C. for one year now following and until other be chosen and sworn in your place, do swear, that you will carefully intend the preservation of the peace, the discovery and preventing*

*1785 C. 70, Sec. 1. He is to be collector of taxes, if no collector is chosen. Likewise, see Forms 115, 116, 117, 118, 119.

†Mass. Rep. vol 10, page 105. Peter Colman & another vs. Mary Anderson. If any one chosen constable and collector of taxes be sworn as constable only, he is qualified to collect taxes.

all attempts against the same; that you will duly execute all warrants which shall be sent unto you from lawful authority, and faithfully attend all such directions in the laws and orders of court, as are or shall be committed to your care; that you will faithfully and with what speed you can, collect and levy all such fines, distresses, rates, assessments, and sums of money, for which you shall have sufficient warrants according to law; rendering an account thereof, and paying the same according to the direction in your warrant; and with like faithfulness, speed and diligence, you will serve all writs, executions and distresses in private causes betwixt party and party, and make return thereof duly in the same court where they are returnable; and in all these things you shall deal faithfully whilst you shall be in office, without any sinister respects of favor or displeasure. So help you God.

HEADS.

1 Choice. 2 Town Meeting, and notifying town officers to take the Oath. 3 Representatives. 4 Jurors. 5 Coroner's Jury. 6 Serving precepts in civil causes. 7 Articles exempt from attachment. 9 Serving Warrants in Criminal cases and duty in keeping the Peace. 10 Watches and Wards. 11 Wolves. 12 Fees.

1. *Choice.*

1785 C 75, Sec. 2. He is chosen at the annual town meeting.

Sec. 3. No person in commission for any office, civil or military, church officer, member of the council, senate, or house of representatives, for the time being, nor any one who has served in the office of constable or collector of any town, district, parish or precinct, within seven years, shall be obliged to serve in the office of constable; and every person chosen and is not exempted as aforesaid, who shall refuse to take the oath to that office *prescribed, and to serve* therein, if he be able in person

to execute the same, shall forfeit and pay to the use of the town, five pounds, and if in Boston, Salem or Newburyport, ten pounds, and shall if present forthwith declare his acceptance or refusal, and in case he shall not declare his acceptance, the town shall proceed to a new choice and so from time to time until one shall accept and be sworn; and any person who shall be present and declare his refusal to serve, or who shall neglect after being summoned, to take the oath, for the space of seven days next after such summons, and who shall neglect to pay the fine aforesaid, shall upon the application [see Form 111, with a small variation.] of the town treasurer, be summoned before the Court General Sessions of the Peace in the county in which such town lieth, and a certificate [see Form 28.] under the hand of the clerk, or two of the selectmen, certifying that such person was legally chosen to the office of constable, shall be admitted as evidence of the fact, and if the person summoned shall make default, or appearing shall not show sufficient cause to the court for his refusal, the court shall order a warrant under their seal directed to any of the constables of the same town then in office, to levy the fine by distress and sale of the offender's goods and chattels, returning the overplus (if any be,) together with the cost arising on such prosecution; and for want of goods and chattels to commit the delinquent to prison until the same shall be paid.

2. *Town Meeting and notifying Town Officers to take the oath.*

1785 C. 75, Sec. 5. He is to warn [see Form 114] town meetings. [See page 33.]

Sec. 6. He is to obey the moderator in town meetings. [See Moderator.]

Sec. 2. He must notify persons chosen into office to appear before the town clerk and take the oath, and he must at the expiration of *ten days* from receiving *such warrant* to notify, make a return [see Form 2] of

such warrant into the town clerk's office with his doings thereon. For neglect of this duty he forfeits *forty shillings*. Further duty respecting notifying persons to take the oath, as to time, &c.—see page 13 and 14.

3. *Representatives.*

1795 C. 55, Sec 1. He must notify Representatives of their choice and summon them to attend. [See Selectmen head 9, and Form 49.]

4. *Jurors.*

1807 C. 140, Sec. 4. The constable on receiving a venire, shall in the usual form notify the freeholders and other inhabitants in their town, qualified to vote in the election of representatives and particularly the selectmen and town clerk to assemble and be present at the draft and selection of the jurors called for; which meeting shall be held at least *six days*, and not more than *twenty days* before the sitting of the court to which the *venire* shall be returnable.

Sec. 13. The manner in which constables, upon the receipt of venires for jurors, shall notify the qualified inhabitants of the respective towns to assemble, and to be present at their drafts as aforesaid, shall, unless otherwise ordered by said towns respectively, be the same as has been, or shall be established therein for notifying and warning their annual town meetings. But if any town have, or shall, at a legal town meeting, order and appoint that the notification shall be by the constables, giving notice to the selectmen, or the major part of them, and the town clerk, or by any other mode, such notification shall be sufficient.

Sec. 6. It shall be the duty of the constable to notify the persons designated to serve as jurors *four days at least* before the sitting of the court on which they are to attend, either by reading to them the venire, with the minutes of their having been drafted therein or by leaving at their usual abode a *written* notification [see Form 115] of their having been so drawn and also of *the time and place*, of the sitting of the court, and

when they are to attend, and he shall make a seasonable return of the venire to the court to which it is returnable with his doings thereon.

Deficiency of Jurors.—Sec. 7. Whenever there is a deficiency in the grand, traverse, or petit jurors the court may issue a writ of *venire facias* and the jurors so drawn the constable is to notify immediately.

Provisional Jurors.—Sec. 12. When provisional jurors are called for in the venire, the constable shall also notify these jurors *four days* before the sitting of the court of their being drawn as provisional jurymen in the same manner as is provided for by the notification of the first set of jurors.

And such provisional jurors shall hold themselves in readiness and be obliged to attend and serve if and when called for, by the court, in the course of that term.

Fees of Jurors—see Selectmen, head 13. Constable's fees, see Post—under Fees.

5. *Coroner's Jury.*

1783 C. 43, Sec. 2. Every constable to whom a warrant of a coroner shall be directed and delivered shall forthwith execute the same and repair to the place where the dead body is at the time mentioned, and make a return of the warrant, with his doings thereon unto the coroner that grants the same.

And every failing unnecessarily of executing such warrant or of returning the same as aforesaid, shall forfeit the sum of *three pounds.*

Constable's fees—see head 12.

NOTE.—1823 June 14. Coroner's jury consists of six men.

6. *Serving Precepts in Civil causes.**

JUDICIAL DECISIONS.

Oystead vs. Shed and others. Mass. Rep. vol. 13,

*1822 C. 20. No Constable shall appear in any court, or before any Justice of the Peace as an attorney to any party, or make, or *fill up any plaint*, declaration, writ or process.—Forfeiture $50 to *the person* who shall sue for the same.

**For returns* see Form 116, 117, 118 and 119.

p. 520. A dwelling house is a protection from arrest upon civil process, the occupant, his children and domestic servants and to permanent boarders or lodgers, but not to strangers or visitors.

Lane and Dalton vs. Jackson. Mass. Rep. vol. 5, p. 157. To constitute an attachment of personal chattels the officer must have the actual possession and custody of them.

Bridge vs. Wyman and al. Mass. Rep. vol. 14, p. 190. On the attachment of personal property on mesne process, it is necessary that such possessions thereof be retained by the officer as shall make the attachment notorious; or it will be vacated as it respects future attaching creditors or purchasers, without notice.

Train vs. Wellington. Mass. Rep. vol. 12, p. 495. An officer attaching chattels upon *mesne process* not obliged to remove them from the store or house whence they were attached. Placing a keeper over them is sufficient—nor does the use by the debtor or his family, of such articles as will not be injured by the use if by the permission of the officer, vacate the attachment.

Baldwin vs. Jackson. Mass. Rep. vol. 12, p. 131. When an officer attaches personal chattels upon *mesne process*, he does not lose his lien upon them, by leaving them in the custody of a third person, without removing them, although the general owner continues to use them.

Watson and al. vs. Todd and al., &c. Mass. Rep. vol. 5, p. 271. Goods attached by an officer on *mesne process* cannot be attached at the suit of a second, but by a writ executed by the same officer.

Sewal land others vs. Mattoon. Mass. Rep. vol. 9, p. 535. When an officer attaches cattle upon *mesne process* the owner must provide for their support at his peril: The officer in such case is answerable to the attaching creditor and his approbation of incurring ex-

pense in maintaining the cattle will not be an excuse for his not retaining them when attached.

Briggs and another vs. Strange. Mass. Rep. vol. 17, p. 405. A constable may serve a writ when the sheriff or his deputy is a party, when the damage sued for or recovered does not exceed *seventy dollars*. So he may attach property in his own town, although the debtor be not an inhabitant of, or resident in such town.

Brinley vs. Allen. Mass. Rep. vol. 3, p. 561. An officer cannot attach the estate of a defendant on *mesne process* after having arrested his body on the same writ.

Bean vs. Parker and al. Mass. Rep. vol. 17, p. 591. Bail are not liable unless the bail bond be executed by the principal.

Hart vs. Huckins. Mass. Rep. vol. 5, p. 260. A constable cannot serve an original writ in a real action; they are confined to personal by the statute of 1795 C. 41, Sec. 3.

The same principles are recognized in Mass Rep. vol. 6, page 400.

Brown (Dorcas) vs. William Brown. Mass. Rep. vol. 15, p. 389. A constable is not competent to serve a summons, issuing upon a libel filed for a divorce.

Statute Provisions.—1795 C. 41, Sec. 3. Any constable in any town or district, be, and hereby is authorized and empowered to serve upon any person or persons in the town or district to which he may belong, any writ, summons, or execution in any personal action where the damage sued for or recovered shall not exceed *seventy dollars*, and return thereof to make to the court to which the same may be returnable.

1817 C. 13. They are authorized and empowered to make service and returns of all writs and processes in which town or district, of which they are inhabitants, are parties or interested.

1784 C. 28, Sec. 11. All goods* and estates attached upon *mesne process* for the security of the debt or damages sued for shall be held for the space of 30 days [60 days in Nantucket 1806 C. 107] after final judgment to be taken in execution. And if the creditor shall not take them in execution within 30 days after judgment the attachment shall be void.†

1797 C. 50, Sec. 1. When the goods or estate of any person shall be attached at the suit of another, a summons must be delivered to the person or left at his dwelling house or place of his last and usual abode *fourteen days*‡ before the sitting of the court. If the defendant was at no time an inhabitant or resident within the Commonwealth then the summons to be left with his or her tenant, agent, or attorney.

1783 C. 42, Sec. 1. A summons or capias and attachment, before a *Justice of the Peace* must be served *seven days* at least before the day set therein for trial.

1797 C. 50, Sec. 2. In all suits wherein the process is by original summons, as against executors, administrators or guardians, in ejectment, dower, *scire facias*, error, review, and all other civil actions wherein the law does not require a separate summons to be left with the defendant, the service thereof by the officer shall be good and valid in law, either by his *reading the writ or original summons* to the defendant, or by leaving a *true copy* thereof at his or her house or place of last or usual abode, *attested by the officer fourteen days* before the day of the court's sitting, whereto the process shall be returnable.

**Civil Officer.*—Attachment of goods, is by corporal touch, with a declaration, if necessary, of the cause of taking.

†Warren vs. Leland Mass. Rep. vol. 9 p. 265. Where an officer had attached goods and within *thirty days* after judgment seized them on execution, but failed to sell them, it was holden another officer might lawfully seize them on another execution in the hands of the bailee of the first officer, notwithstanding he had notice of the first seizure.

‡*Court writ.*

Sec. 3. In all actions wherein the process shall be by original summons as aforesaid, and in which the defendant was at no time an inhabitant or resident within the Commonwealth, then the service thereof shall be in like manner by the proper officers reading the same to or leaving a like copy *duly attested*, with the tenant, agent, or attorney, of the defendant the like number of days before the day of the court's sitting whereto the process is returnable.

1783 C. 57, Sec. 5. When any goods or chattels shall be taken to satisfy an *execution* issuing upon a judgment obtained, such goods or chattels shall be safely kept by the officer, at the expense of the debtor, for the space of *four days** next after they are so taken; and if within that time the owner shall not redeem the same by otherwise satisfying the execution, such goods and chattels shall be sold at public vendue to the highest bidder†, having first been advertised by the posting up notifications of the time and place of sale, *forty eight hours* before the expiration of the *four days*, in the town or place where the sale is to be; and the money arising from such sale shall be applied to the paying charges and satisfying the execution, and the officer shall return the overplus (if any there be) to the debtor. And the officer who is possessed of the execution, shall make return‡ of the same, with his doings therein, *particularly* describing the goods taken and sold, and the sum for which *each article was struck off*, and if any officer shall be guilty of any fraud

*Caldwell vs. Faton. Mass. Rep. vol. 5, p. 399. Goods seized by an officer on execution must be sold by him at the expiration of *four days* after the seizure, *forty eight hours* previous notice being given of the sale: And if he neglect so to do, another creditor may seize the goods on execution and cause the same to be sold for his benefit.

†Winslow vs. Loring. Mass. Rep. vol. 7, p. 392. When the highest bidder refuses to take and pay for the articles he bids off the officer may set it up again.

‡ *Return* on an execution is so simple that I have inserted no *form*.

in the sale or return, he shall pay the debtor *five times* the sum defrauded, to be recovered by action on the case.

1810 C. 84. When an officer has at the same time two *executions* wherein the creditor in one execution, is debtor in the other, he is to cause one to answer the other as far as it will extend: But the creditor, in one must be in the same capacity and trust debtor in the other. Nothing in this act should be construed to affect or discharge the lien which any attorney may have upon any judgment or execution for his fees and disbursements, or to affect the rights of any person to whom or for whose benefit the same judgment or execution, or the original cause of action thereof may have been assigned *bona fide*, and without fraud.

By the act of Feb. 20, 1824, courts are authorized to offset *judgments* in certain cases.

1811, C. 102, Sec. 2. If any constable shall take the *body* of any deceased person by virtue of any writ on *mesne process* or execution, he shall be fined not more than $500, and be imprisoned for a time not exceeding *six months.*

1789 C. 26, Sec. 1. A constable may serve a writ of replevin,* where the sum does not exceed *twenty pounds.*

1799 C. 35, Sec. 1. Notice of the taking depositions may be served by a constable.

7. *Articles exempted from attachment.*

JUDICIAL DECISIONS.

Gibson vs. Jenney Mass. Rep. vol. 15, p. 205. A swine when killed is protected from attachment and execution, by the statute of 1805, C. 100.

Daily vs. May. Mass. Rep. vol. 5, p. 313. Implements of husbandry used in the tilling the land, are not within the statute of 1805, C. 100, exempting the tools of a debtor from attachment or execution.

* Return of a *writ of replevin* and replevin bond with the receipt *required, see Forms 121, 122, 123.*

Statute Provisions.

1805, C. 100. *The wearing apparel, beds, bedsteads, bedding*, and *household utensils* of any debtor, necessary for himself his wife and children, the *tools* of any debtor necessary for his trade or occupation, the *bibles* and *school books* which may be in actual use in his or her family, together with *one cow* and *one swine*, *Provided* that the beds, bedding exempted as aforesaid shall not exceed one bed, bedstead, and necessary bedding to *two persons*, and household furniture to the value of *fifty dollars* upon any just appraisment.

1813 C. 172. *Six* sheep and *two* tons of hay for the use of said sheep and for the use of a cow; Provided that from the first day of October, to the first day of April in each year, no more than *six sheep* shall be exempted from attachment; And provided *also* that the value of said sheep shall in no case exceed the sum of *thirty dollars.*

1817 C. 108. All *cast iron stoves* and *stoves* made of *sheet iron* used exclusively for the purpose of warming buildings; Provided that not more than one such stove to each building owned or occupied by the same person or family shall be exempted.

1805 C. 100. And no civil officer shall attach, levy upon, or take any of the above either on *mesne process* or *execution.*

*Serving warrants in criminal cases, and duty in keeping the peace, requiring aid, &c.**

1783 C. 51, Sec. 2. Constables are empowered and directed to serve all *warrants* issuing from a Justice of the Peace. Any constable being in the execution of his office for the preservation of the peace, or the apprehending or securing any person or persons

* Churchill vs. Perkins and others. Mass. Rep. vol. 5, p. 541. A bond to a constable conditioned to deliver up a prisoner arrested by virtue of a warrant, of a Justice of the Peace is insufficient.

* *For return on warrants see Form 120.*

for the breach of the same, or for any other criminal cause, shall have lawful authority to require suitable aid and assistance, and if any person being required in the name of the *Commonwealth of Massachusetts* to aid and assist him shall neglect or refuse so to do, he shall be fined not less than *three dollars*, nor more than *fifty dollars* for the use of the county; and if unable to pay shall be imprisoned, not exceeding *thirty days*.

The office of constable, by the common law, is either ministerial in obeying warrants and precepts of Justices of the Peace, &c. or is original as a conservator of the peace at common law, and by virtue of ancient statutes. [See Davis' Justice p. 57. 1 Chit. C. L. 26. 2 Hale 88] When the officer has made the arrest, he is *forthwith* to bring the party to the Justice according to the import of the warrant. If the time be unseasonable as in the night; or if there be danger of a rescue; or if the party be sick and not able at present to be brought, he may be secured in a house till the next day, or for a further time, if reasonable and necessary. And when the party is brought before the Justice by an officer, he is in law, still in his custody, till the Justice either discharge or bail him, or till he be actually committed to gaol by warrant from the Justice. And if the officer be guilty of unnecessary delay in bringing the party arrested before the Justice, it will be a breach of duty, both as it respects the party himself, who is entitled to a prompt discharge if innocent, and as it respects the government at whose expense he is unnecessarily detained in custody. [See Davis' Justice p. 78 and 2 Hale 119.]

If the warrant be to bring the party before the Justice who issued it, then the officer is bound to bring him before the same Justice; but if the warrant be to bring him before any Justice, then the power of election is vested in the officer, and not in the prisoner, and the officer may proceed to any magistrate who has jurisdiction within the county. [See Davis' Justice p. 79. *5 Co. 59 b.* 1 Hale 582.]

The officer to whom a warrant is directed, must proceed with secrecy to find out and actually arrest the party; not only in order to secure him, but also to subject him and all other persons to the consequences of escape and rescue; but in many cases for common assaults it may not be inconsistent with an officer's duty to give notice to the parties accused, of the time when they must go before the magistrate, in order that they may be provided with sureties. [See Davis' Justice p. 64.]

The arrest may be made in the night, and on the Sabbath. [Ib. p. 65.] It is laid down in Chitty's late treatise upon criminal law, that in all cases doors may be broken open, if the offender cannot otherwise be taken under a warrant for treason, felony, suspicion of felony, or actual breach of the peace, or to search for stolen goods; and, of course that the warrant is a complete justification to the person lawfully executing it, even though the party accused should prove innocent. But it is to be remembered that in every case where doors may be broken open in order to make an arrest, whether in criminal or civil cases, there must be due notice first given by the officer of his business, a demand of admission, and a refusal, before the parties concerned can proceed to that extremity. [See Davis' Justice p. 71. 1 Chit. C. L. 54. Foster 320.]

When an affray is made in a house in the view or hearing of a peace officer, he may break open the outer door in order to suppress it. [See Davis' Justice p. 68. 2 Hale 95. Hawk. v. 1 b. 63 and Hawk. v. 2 b. 14.]

1795 C. 68, Sec. 4. Any constable of any town or district, shall have authority in the execution of the warrant or writ to him directed, by lawful authority to convey, as well any prisoner or prisoners, as any thing that they may have taken into their custody, either to the Justice issuing such warrant or writ, or to the common gaol or house of correction of the

county wherein such constable is an inhabitant, according as in the writ or warrant may be directed.

Sec. 2. Any person pretending to be a constable when he is not, and take upon himself to act as such, or to require any person or persons, to aid or assist him in any matter appertaining to the duty he shall be fined not exceeding *four hundred dollars*, one half to the Commonwealth and the other half to the prosecutor. [Cursing and swearing see town clerk head 25. Riots see town clerk head 26. Gaming see selectmen head 25. Breaches of the Lord's day see tythingmen.]

NOTE.—1791 C. 53, Sec. 3. The constable is to pay over all fines, forfeitures and bills of cost which he may receive, and which accrues to the county or Commonwealth, to the county treasurer within *ten days* after the receipt of the same, or forfeit double such fine or bill of cost.

10. *Watches and Wards.*

1796 C. 82. He is to warn watches or wards when ordered, and is to take care that some able householder or other sufficient person is joined in each ward or watch, to see that they attend to their duty.

For further duty respecting watches and wards see selectmen head 35.

11. *Wolves, (see page 66.)*

12. *Fees.*

1785 C. 75, Sec. 2. For warning persons to appear and take the oath and for other town business, he is to be allowed such reasonable sum for his services, as the inhabitants shall agree upon.

1795 C. 41, Sec. 1. For service of an original summons or *sire facias* either by reading the same, or by copy on one defendant 30 *cents*, and for each other defendant *thirty cents*, for the service of a capias, or attachment, the same. If by a written direction he shall make a *special service* of any such writ either by

attaching property or taking the body therefor, *fifty cents.*

When an officer is by law directed to leave a copy to complete the service, or shall give a copy of any precept on demand thereof, he shall charge at the rate of 12 cents a page.

For a bail,* bond and writing the same, including principal and surety to be paid by the person admitted to bail, and taxed for him if he shall prevail, *twenty cents.*

Serving a warrant *thirty cents.*

Summoning witnesses in criminal cases *ten cents* for each witness, and travel as in civil causes.

Constables fees for the service of executions,† *four cents on a dollar.*

Travel for the service of such execution and also of *mesne process* or warrant, *four cents a mile.* The travel to be computed from the place of service to the court or place of return, by the usual way. If served on more than one, then the travel shall be computed from the remotest place—and not but one travel will be allowed.

If the travel be more than *fifty miles* one cent per mile will be allowed for all travel exceeding that distance. The *travelling fees* must be *endorsed* by the officer serving the same, otherwise they will not be allowed.

For serving venires *twenty five cents*, and four cents a mile for travel to the clerk's office to be paid out of the county treasury.

Fees for attendance and expenses in summoning coroner's jury, *ninety cents a day.*

Aid in criminal cases, *one dollar* for every twelve hours, and four cents a mile going out and returning home.

* Bail bond see Form 124.

† Commonwealth vs. Shed. Mass. Rep: vol. 1 p. 227. Constable must not take *thirty cents* for service of an execution, in addition to poundage.

Sec. 5. Persons receiving fees as stated in statute 1795 C. 41, shall if required by the persons paying the same, make out a particular account of such fees in writing, specifying for what they accrued, or forfeit treble the fees so paid.

Sec. 6. If any person shall wilfully demand* and receive any greater fees for any of the services mentioned in this act, shall forfeit *thirty dollars*† for every offence. [See the statute.]

COLLECTOR OF TAXES.‡

OATH.

1785 *C.* 70, *Sec.* 17.] *YOU, A. B. being appointed a collector of taxes within the of for*

*Runnels vs. Fletcher. Mass. Reports, vol. 15, page 525.—When an officer in settling an execution demanded and received of a debtor a sum beyond the amount of his legal fees, as a compensation for his trouble, which he had at a former time, from the debtor's resisting him, for which he had been indicted and convicted. It was not holden to be extortion within the statute of 1795 C. 41.

† Dunlap vs. Curtis. Mass. Rep. vol. 10, page 210. The penalty of *thirty dollars*, given by the fee bill against officers guilty of demanding and receiving greater fees than are authorized by the fee bill, is not incurred where the fees are demanded of, or voluntarily paid by a person not liable by the law for the same.

Shattack vs. Woods. Pickering's Mass. Rep. vol. 1, p 171.—An officer does not incur the penalty of stat. 1795 C. 41, Sec. 6, by taking fees on a writ of execution on which he makes no service. The penalty is incurred if he takes a compensation for extra trouble, greater fees for levying execution than are allowed by the statute.

‡ Decease of a collector, see page 87.
Collector removed or about to remove, see page 88.
Collector remiss in his duty, see 89.
Collector taken on execution, ibid.
Collector absconded or secreted, see page 91.
Collector *non compos mentis*, infirm, or having a Guardian, page 92.
For his duty respecting school district taxes, see school district, head 3.

one year next following, do swear, that you will levy and collect with what speed you can, all such rates and assessments, for which you shall have sufficient warrants according to law: rendering an account thereof and paying the same according to the directions in your warrant. So help you God.

HEADS.

1 Choice. 2 Warrant. 3 Distress and Commitment. 4 In what cases Collectors may sue for rates. 5 When the time is not expired in the warrant for collecting taxes, and a person is about to remove—also continuance of power. 6 Taxes on the unimproved lands of non resident proprietors, or improved lands of proprietors living out of the Commonwealth. 7 When the owner or tenant of improved lands does not live in the town—convenient way of collecting such tax —in case. 8 Non Residents. 9 proprietors of land removing. 10 Persons absconding. 11 Collector impeded may require aid. 12 When a person is taxed for real estate in his possession and is not the owner. 13. Collectors must keep and exhibit an account of taxes collected, give receipts &c.

1. *Choice.*

1785 C. 70 Sec. 1. The qualified voters of any town or district at the time they choose constables, may if they see cause, choose some meet person or persons, to be collector or collectors of the rates or taxes that shall be assigned upon such town or district, and agree upon what sum shall be allowed and payed unto such collector or collectors, for his or their services..

Sec. 16. No person in commission for any office civil or military, church officer or member of the council, senate, or house of representatives, selectmen, town clerk, town treasurer, or assessor for the time being, or any other person that has served as constable *or collector* for himself or his own town, within the

space of *seven years*, shall be obliged to serve in the office of collector.

Sec. 1. If the collector refuse to serve, or if none is chosen, the constable shall be collector. [See page 144.]

2. *Warrant.*

1785 C. 70, Sec. 1. He must have a warrant from the selectmen or assessors and must pay in the same according to the directions in his warrant.

3. *Distress and Commitment.*

1785 C. 70, Sec. 2. If any person shall refuse to pay the sum or sums which he shall be assessed or his proportion of any rate or tax upon demand thereof, made by the constable or collector, it may be lawful, and he is required and authorized to distrain* the person so refusing by his goods or chattels, and the distress so taken to keep the space of four days at the cost and charge of the owner; and if the owner does not pay the sum or sums so assessed on him within the space of four days, then the distress shall be openly sold at public auction, by the said officer for the payment of the said money, notice of such sale being posted up in some public place in the same town, district, plantation, precinct or parish, forty eight hours before the sale, and after the expiration of the four days aforesaid.

1791 C. 22, Sec. 2. It shall and may be lawful to give the forty eight hours notice of the sale within the said four days, and after such notice to sell such distress, after the expiration of the said four days, any law to the contrary notwithstanding.

* 1785 C. 46, Sec. 9. In no case whatever, any distress shall be made or taken from any person, of his arms or household utensils necessary for upholding life; nor of tools or implements necessary for his trade or occupation, beasts of the plough, necessary for the cultivation of his improved land; nor of bedding or apparel necessary for him and his family; any law, usage or custom to *the contrary notwithstanding.*

1785 C. 70, Sec. 2. And the overplus arising by such sale, if any over and above the charge of taking and keeping, to be immediately restored to the former owner; with an account in writing* of the sale and charges; and if any person assessed as aforesaid, to the state or other tax, shall refuse or neglect to pay the sums so assessed by the space of twelve days after demand thereof, and shall neglect to show to the constable or collector sufficient goods or chattels whereby the same may be levied, in every such case, he may take the body of the person so refusing, and him commit unto the common gaol of the county, there to remain until the sum be paid or he discharged therefrom by due order of law, *Provided nevertheless*, That in all cases where there are in the opinion of the assessors or a major part of them, just grounds to fear, that any person or persons assessed as aforesaid, may abscond before the expiration of the said twelve days, in such cases it shall be in the power of the constable or collector to demand immediate payment.

Sec. 5. When any person shall remove from any town or place where he lived or had his residence at the time of making the list of any state, town, county, precinct, plantation or parish tax, not having before paid the respective sum or sums set upon him by such lists, it shall and may be lawful for the constable or collector to demand† the sum or sums assessed upon such person in what town or place soever within this Commonwealth, he may be found, and upon refusal or neglect to pay the same, to distrain the said person by his goods or chattels as aforesaid; and for want of such distress to commit the party to the common gaol of the county, where he shall be found, there to remain until the payment be made.

Sec. 11. When any officer appointed for collecting any rates or assessments, by virtue of any warrant, shall for want of goods or chattels, whereof to make

*See Form 125. † May sue, see head 4.

distress, take the body of any person and commit him to prison, he shall give an attested copy of his warrant unto the keeper of the prison, and thereupon certify [see Form 126.] under his hand, the sum such person is to pay as his proportion, to the assessment with the costs of taking and committing, and that for want of goods or chattels, whereon to make distress, he has taken his body.

Fee for the copy of the warrant, *two shillings.*

Sec. 18. In case of distress or commitment for the non payment of taxes, the officer concerned therein, shall be entitled to the same fees which sheriffs [see constable, head 12.] by law are or may be entitled to for levying executions, saving that the travel in case of distress shall be computed only from the dwelling house of the officer to the place where the distress may be made.

1790 C. 42, Sec. 16. When any person who shall be imprisoned for the payment of the proportion of any tax which shall be assessed upon him, shall be discharged from confinement, the collector or constable making such imprisonment shall not be discharged of the proportion which was due from such person, but shall be holden to pay the same, unless such imprisonment shall be made within one year next after the commitment of such tax to such collector or constable, or unless the inhabitants of such town or place in legal town meeting shall see fit to abate the same to such collector or constable.

4. *In what cases Collectors may sue for Rates.*

1789 C. 4. When any person duly rated in any town, district, precinct, parish or plantation, hath died, or shall die before the payment of their rates, and where any person duly rated hath removed, or shall remove out of the town, district or plantation, in which such person lived at the time such rates were or may be assessed, before the paymeut of such rates, and where any unmarried woman, duly rated as aforesaid, hath

intermarried, or shall intermarry before payment of such rates; in all such cases, it shall and may be lawful for the constable or collector of such town, district, precinct, parish or plantation, to sue for such rates, and they shall have the like remedy for the recovery thereof, as other creditors have for recovering their proper debts.

5. *When the time is not expired in the warrant for collecting taxes and a person is about to remove—also, continuance of power.*

1785 C. 70, Sec. 8. When any state or other rate or tax shall be made payable at two or more several times, and any person being an inhabitant or dwelling in any town, district or plantation within this Commonwealth, at the time of making such rates or taxes, and being assessed thereunto, shall be about to remove from thence before the time that shall be prefixed for the payment of the same, it shall and may be lawful for the constable or collector of the same town, district or plantation, to demand and levy the whole sum which such person may be assessed, in his list or lists, notwithstanding the time for collecting the second part of such rate or tax may not have arrived, and in default of payment to distrain for the same, or take such other course for the obtaining thereof as is herein before provided; and when the constables or collectors be anew chosen and sworn, in any town, district, plantation, precinct or parish, before the former constables or collectors have perfected their collection of any state or other tax or assessment, to them committed to collect, such former constables or collectors are hereby fully empowered and required to perfect all such collections and may exercise the same power and authority for collecting and enforcing the payment thereof as by this act they might have done before other constables or collectors were chosen and sworn.

6. *Taxes on the unimproved lands of non resident proprietors, or improved lands of proprietors living out of the Commonwealth.**

1785 C. 70, Sec. 7. When no person appears to discharge the taxes on the unimproved lands of non resident proprietors, or improved lands of proprietors living out of the limits of this Commonwealth, to the collector thereof, he shall advertise† in the public newspapers of the printer to the General Court for the time being, three weeks successively, the names of all such proprietors, where they are by him known, with the sum of the taxes assessed on their lands respectively, and also the time and place of sale; and where they are not known, he shall, in the same manner, publish the sum of the taxes on the several rights, numbers of lots or divisions; and where the name of the place in which such lands lay, may have been altered by any act of this Commonwealth, within three years next preceding such advertisement, he shall express not only the present name, but the name by which the same was last known; and in either case shall post the same in some convenient and conspicuous place in the same town or plantation, as the case may be, where the said lands lay, and in three of the adjoining towns, at least for the term of three weeks previous to the time appointed for such sale; and if no person shall appear thereupon to discharge the said taxes, and all necessary intervening charges, then the collector aforesaid shall proceed to sell at public auction to the highest bidder (after waiting two hours from the time appointed for said sale) so much only of the said lands as shall be sufficient to discharge said taxes, and the necessary intervening charges, having first given notice of

*Rising Jr. vs. Granger Mass. Rep. vol. 1, p. 47. Non resident proprietors of unimproved lands are not personally liable for the taxes assessed on such lands; but the taxes are a lien on such lands.—So on the improved lands of proprietors living without the Commonwealth.

†See Form 127.

the intended sale thereof, and the time and place when and where the same will be made as aforesaid; and shall have power to adjourn from day to day (if necessary) to complete the said sale, not to exceed three days (waiting as aforesaid) and shall give and execute a deed* or deeds to the purchaser or purchasers, of his or their heirs and assigns, expressing therein the cause of such sale, and saving to the aforesaid proprietor or proprietors, the right of redemption of any lands so sold, within any time for the space of two years from the time of such sale; and the same shall be reconveyed to him or them, the said proprietor or proprietors, on paying within two years as aforesaid, the sum such land sold for, with interest at the rate of ten *per cent, per annum* on said sum, together with all necessary intervening charges. *Provided nevertheless*, That the purchaser or purchasers as aforesaid shall not make any strip or waste on the premises until the time of redemption shall have expired; and if the said purchaser or purchasers shall have made any strip or waste on the premises, as aforesaid, he or they shall be liable to pay all damages to the original owner or owners, in as full and ample a manner as if he or they had not purchased the same.

1794 C. 68, Sec. 1. When any non resident proprietor of any lands in any town, district or plantation, within this Commonwealth shall have authorized, in writing, any person residing and dwelling in any such town, district or plantation, as his attorney, to pay the taxes imposed upon said lands, and such written authority shall have been lodged with or recorded by the clerk of such town, district or plantation, which such clerk is hereby required to do upon application of such attorney, and payment of one shilling for filing or recording the same, no constable or collector of taxes in any such town, district or plantation, shall proceed to advertise the sale of any lands of any such non resi-

*See Form 123.

dent proprietor for the non payment of any taxes committed to them to collect without first notifying and demanding payment of such tax of such attorney either personally or by written notice and demand left at his dwelling house, nor till after the expiration of two months from and after such notice, and in case such collector shall have occasion, after two months, to advertise such lands for sale upon neglect of the payment of the taxes his affidavit made before a Justice of the Peace, and recorded by the clerk of such town, district or plantation (who is hereby required upon request of such constable or collector, to record the same) before any sale be made, that such personal or written notice was given and expressing the time of giving the same, shall be admitted as legal evidence thereof.

Sec. 2. The affidavit of any disinterested person, taken before a Justice of the Peace of the posting notification required by law, for the sale of any land which shall be sold by any sheriff, constable or collector, in the execution of his office, may be used in evidence of the fact of notice, upon any trial of the validity of such sale. *Provided* that such affidavit made on one of the original advertisements, or on a copy of one of them, shall be filed and recorded in the registry of deeds of the county or district where the land lies, within six months.

7. *When the owner or tenant of improved lands does not live in town—convenient way of collecting the tax, in case.*

1785 C. 70, Sec. 10. Where the owner or tenant of any improved lands liable to pay taxes, shall not reside, or be an inhabitant of the town, district, plantation, precinct or parish in which such lands lie, and no stock, corn, or hay can be found upon the said lands, whereof the constable or collector may make distress to satisfy such sum or sums, as from time to time such lands may be assessed, either to the state, county, town, district, plantation, precinct or parish, in such

case any Justice of the Peace in the county where the owner or tenant of such land lives, upon application [see Form 129.] to him made in writing, by such collector, upon sight of the lists or an authenticated copy thereof, may and hereby is empowered and required to grant a warrant [see Form 130.] unto the constable of the town or place where such occupant dwells or resides, to distrain such owner or occupant by his goods or chattels the full sum at which the said lands are set in such list or assessment, with the charges occasioned by making such distress; and to satisfy the same by sale thereof returning the overplus if any there be, to the owner; and in case no goods or chattels can be found, whereon to distrain, to commit the party to common gaol of the county, there to remain until he pay and satisfy the sum or sums so assessed, with the charges.

8. *Non Residents.*

1782 C. 61, Sec. 1. When any constable or collector of public taxes shall have any list of assessment to him committed, in which list shall be named and legally assessed in any sum or sums, any person or persons not inhabitants of the town, district or plantation, to which such constable or collector belongs, it shall and may be lawful for any such constable or collector to require and command any person or persons within the limits of their respective towns, districts or plantations, to assist him in the collection of the taxes assessed as aforesaid, on any of the inhabitants of any such adjacent lands, and such constable or collector, may and hereby is also fully authorized to require and command any of the inhabitants of the aforesaid lands adjacent, to assist him in collecting any such assessment as aforesaid.

Sec. 2. If any person or persons, when thereto required shall refuse or neglect to aid and assist any constable or collector requiring such aid, he or they so refusing or neglecting shall be and hereby are made *liable to, and shall* pay the same penalties to be recover-

ed and disposed of in the same manner as by law is provided in case of refusing to assist constables or collectors when thereto required within the limits of their respective towns.

9. *Proprietors of land removing.*

1785 C. 70, Sec. 6. If any owner or proprietor of land or other real estate shall remove out of the town, district, plantation, precinct or parish where the said land or other real estate lays, after the same is assessed, to some other place within this Commonwealth, or out of the limits thereof and shall neglect or refuse to pay the said assessment by the space of *three months* from and after the time of such removal; and if the collector or collectors to whom such assessments shall be legally committed cannot within the said *three months* find any personal estate belonging to such person so removed sufficient to pay the same, then such collector or collectors shall proceed to sell so much of the said land or other real estate as will amount to the assessment aforesaid together with the charges of such sale in the same manner as is provided for the sale of lands belonging to non resident proprietors for the payment of taxes.

10. *Persons absconding.*

1787 C. 50. When any person, duly taxed in any assessment as aforesaid, hath absconded or shall hereafter abscond, not having paid their rates and taxes, and hath concealed or shall conceal his goods, and estates; in every such case, the collectors and constable to whom the said rates and taxes are committed to collect, shall have like remedy against their agents, factors or trustees, for the recovery of the same as by the laws of this Commonwealth other creditors have for the recovery of their debts.

11. *Collector impeded may require aid.*

1785 C. 70, Sec. 9. If any of the collectors of the *state, county, town, district,* precinct or parish rates

and taxes when in the execution of their office shall be hindered or impeded in collecting the rates and taxes committed to them, so it shall be lawful for such collectors to require some meet person or persons to aid and assist them therein; and that all persons so required who shall refuse their aid and assistance, shall severally pay a fine to the poor of the town, district or plantation where the offence may arise, not exceeding *forty shillings* at the discretion of the Justice of the Peace before whom conviction may be had by complaint or information *in writing* according to the circumstances of the offence: *Provided*, that it appears to the Justice, that the aid so demanded, as aforesaid, was necessary; and on default of payment of the fine imposed the Justice may order the offender to be committed to the common gaol of the county for the space of *forty eight hours.*

12. *When a person is taxed for* real estate *in his possession and is not the owner.*

1785 C. 70, Sec. 14. In all cases where any person or persons who may be taxed for any real estate in their possession, may not be the owner or proprietors of such estate, it shall be the duty of every collector on whose rate bill the name or names of any such person or persons shall be borne, to demand, as soon as may be after such bill shall be regularly committed to him, the full amount of the taxes that may be therein assessed upon such person or persons respectively; and that all cattle, sheep, horses, swine or other stock, and also all the produce of any such estate which then, or within *nine months* from the time such assessment shall be committed as aforesaid, that shall or may be found on the premises belonging to the owner or proprietor of such estate, or to any tenant thereof taxed as aforesaid, shall be liable to be taken and disposed of by public auction, in manner as is provided by law, in case of distress taken for taxes in discharge in part or in whole of any sum or sums assessed, upon any such person or persons as aforesaid.

Sec. 15. If any stock or produce which may be taken and disposed of as aforesaid, shall be the property of the proprietor or owner of the land assessed as aforesaid, in every such case every such person or persons assessed as aforesaid shall be held to make full satisfaction to the owner or proprietor of such stock or produce, and the collector making distress shall not be chargeable with the sums: *Provided always*, that if the person or persons assessed as aforesaid shall remain on such estate or in the town, district, parish, precinct or plantation where the same may lay for the space of *nine months* next after the rate bill shall be committed to any such collector as aforesaid, the said collector shall have no other remedy than against the person or property of the person or persons assessed as aforesaid, unless it shall appear that there was no sufficient distress to be found upon the premises within that time, and that such collector was unable to collect the sum or sums due from the person or persons, assessed, as aforesaid within the like term: in which case it shall and may be lawful, for such collector or collectors to proceed to sell so much of said real estate as may be necessary to discharge the said assessment and charges in the same manner as is provided for the sale of lands belonging to nonresident proprietors for the non payment of taxes: *Provided*, such sale shall be made within the term of one year from the time such tax shall be committed to such collector or collectors and not afterwards.

13. *Collectors must keep and exhibit an account of taxes collected, give receipts, &c.*

1783 C. 66, Sec. 1. Collectors of public taxes shall once every *two months* at least exhibit to the selectmen, and where there are no selectmen to the assessors of the respective towns or plantations to which they belong, a just and true account of all the monies they have received, all the taxes committed to them, and produce the treasurer's receipts for all the money by them *respectively* paid into the treasury.

Sec. 2. If he neglects this duty he forfeits. 2 1-2 *per cent.* on the sums committed to collect to be recovered by such town or plantation, in any court proper to try the same.

Act passed Feb. 11, 1823, Sec. 2. It shall hereafter be the duty of the several collectors of state or county taxes in the town and districts to keep an accurate and true account* of every person's name from whom they shall have received payment of a state or county tax and of the time of such payment, and upon request therefor, to deliver the persons paying the same a receipt, specifying the name of the persons paying the same, and at the time of such payment which shall be received and considered presumptive evidence thereof. And the said collector shall hereafter *annually fifteen days before the first Monday of March* make out and deliver to the selectmen, of the town in which they reside, a true and accurate list of all persons from whom they shall within the year then next preceding have received any such payment, specifying time of payment or shall exhibit and deliver to the selectmen the original account by them kept, of such payment.

Sec. 6. Any collector who shall neglect to return a list of persons, of whom he has received payment of any taxes as required by this Act, shall forfeit and pay the sum of *one hundred dollars* for such neglect, and any collector, who shall make a false return as regards any part of the list returned by him to the selectmen, shall forfeit and pay the sum of *twenty dollars*, for each and every name, in which the said collector may have made a false return; which penalties may be recovered by an action of the case, one half to the use of the town, in which the offence is committed, and the other half to the use of the person who sues for the same. [See Selectmen head 6, and Assessors head 4.]

* See Form 131.

SCHOOL DISTRICTS.

HEADS.

1 Their incorporation, limits, power to raise money, to procure utensils—erect and repair school houses, &c. 2 Calling School District meetings. 3 Assessment and Collection of School District taxes. 4 Abatement of such taxes.

1. *School Districts—their incorporation, limits, power to raise money to procure utensils—erect and repair school houses, &c.*

1817 C. 14, Sec. 1. Each and every school district in this Commonwealth is hereby made a body corporate, so far as to bring and maintain any action, on any agreement, made with any person or persons, for the non performance thereof, or for any damage done to their school houses, and be liable to have any action brought and maintained against them for the non performance of any contract by them made.

Sec. 2. The said corporation shall have power to take and hold in fee simple or otherwise, any estate, real or personal, which has been or may be given by any person or persons for the purpose of supporting a school or schools in said district, and to apply the same for the purposes aforesaid, and may prosecute and defend any suit or suits relative to the same.

1821 C. 99. Any member of any school district shall and may be admitted as a competent witness, and his deposition used in the same manner as inhabitants of towns, districts, precincts, or parishes, or religious incorporated societies, are by law now admitted, and their depositions used.

1789 C. 19, Sec 2. Every town and *district** be and they are hereby authorized and empowered in

* The word *district* as here and in many other places used, does not mean *school district*.—Ed.

town meeting, to be called for that purpose, to determine and define the *limits** of school districts within their towns and districts respectively.

1799 C. 66, Sec. 1. The inhabitants of the several school districts within any town which hath already, or shall hereafter define the limits of such districts, qualified to vote in town affairs, be and they are hereby empowered, at any meeting called in manner herein after provided, to raise money for erecting or repairing a school house, in their respective districts to determine in what part of the districts to erect said house, to choose a committee to superintend the building and repairing the same, and to choose a clerk, who shall be sworn† faithfully to discharge the duties of his office; whose duty it shall be to make a fair record of all votes passed at any meeting of the district, and to certify the same when required; also, at any such meeting, to raise money to procure necessary utensils for their respective school houses, to be certified as aforesaid, and assessed in manner as is herein after provided.

1802 C. 11. The inhabitants of the several school districts are empowered at any legal meeting called for that purpose, to purchase any house or building to be used as a school house; and also to purchase land for the school house of the district to stand upon.

1799 C. 66, Sec. 4. Any vote to raise money, for the purpose of erecting or repairing a school house, passed by a majority of the inhabitants of a school district present at a district meeting legally warned and held shall be obligatory on the inhabitants of said school district, to be assessed, levied and collected in the manner prescribed by this Act.

Sec. 5. If the inhabitants of any school district

* Richards jr. vs. Dagget and others. Mass. Rep. vol. 4, p. 534 Towns may alter the *limits* of, or subdivide any school districts without changing the *limits* of all

† OATH.—*You solemnly swear that you will faithfully discharge the duties of your office as Clerk of School District No. in the town of* . So help you God.

cannot agree where to erect a school house, for the accommodation of the same, the selectmen of the town to which such district belongs, upon application made to them by the committee of the district are hereby authorized and empowered to determine on the place where a school house, for the use and accommodation of the district shall be erected.

1814 C. 142. Whenever a meeting of the inhabitants of any school district within this Commonwealth, shall be called conformable to the statute 1799 C. 66, for the purpose of building or repairing any school house in the said district, and a majority of the voters present are opposed to the building or repairing necessary to be made, as stated in the warrant by which the said meeting was called, it shall be lawful for any *five* or more of the freeholders, who are inhabitants of said school district, to make application in *writing* [see Form 72] to the selectmen of the town in which such school district is situated, requesting them to insert in their warrant for calling the next town meeting, an article, requiring the opinion of the town relative to the building or repairing, or the procurement of any utensils for the school house, as proposed in the meeting of said school district; and if a majority of the voters present in said town meeting shall think the building or repairing necessary and expedient, they shall then grant such a sum of money as they shall think necessary for defraying the expense of such building or repairing, and the same shall be assessed on the polls and estates of the inhabitants of said district, and collected in manner and form as is provided in the statute of 1799 C. 66. [See head 2.]

2. *Calling School District meetings.*

1799 C. 66, Sec. 4. It shall be the duty of the selectmen of the several towns divided into school districts as aforesaid upon application [see Forms 73, 74 and 75] *made to them in writing*, by three or more *free holders, resident* within any school district in their

respective towns, to issue their warrant directed to one of the persons making such application, requiring him to warn the inhabitants of such district *qualified to vote in town affairs*, to meet at such time and place in the same district, as the selectmen shall in their warrant appoint. And the warning aforesaid shall be by notifying *personally every person* in the district *qualified to vote in town affairs*, or by leaving at their usual places of abode a notification in *writing*, expressing therein the *time, place* and *purpose* of the meeting, *seven days* at least before the time appointed for holding the same. [See head 1.]

3. *Assessment* and collection of School District taxes*

JUDICIAL DECISIONS.

Pease jr. vs. Whitney and others. Mass. Rep. vol. 5, p. 880. Lands of a resident owner in any town occupied by his tenant are taxable in the school district in which the tenant lives; and lands in his own occupation in the school district in which the owner dwells.

White's Dig. 131, Note.—It is not necessary that the assessment be made within thirty days from the date of the certificate of the district clerk.

If an illegal assessment of such money be made, the same or preceding assessors, may make a new assessment, for which purpose the district clerk may issue a second certificate.

White's Dig. 130, Note.—Moneys voted to be raised by the inhabitants of a school district for the erecting of a school house may be assessed by assessors chosen after such votes.

So also the inhabitants of a school district having voted to raise money for erecting a school house, may afterwards, and before the same are assessed rescind such vote at their discretion.

* *For the method of assessing school district taxes, see Form after town taxes.*

STATUTE PROVISIONS.

1799 C. 66, Sec. 2. Every man shall be taxed in the district in which he lives, for all the estate he holds in the town, being under his own actual improvement. and all other of his real estate in the same town, shall be taxed in the district in which it is included; and lands, when the owner thereof lives without the town, shall be taxed in such district as the assessors, having regard to the local situation thereof, shall appoint; and it shall be the duty of the assessors, before they assess a tax for any district, to determine in which district such lands respectively shall be taxed, and to certify, in writing, their determination to the clerk of the town who shall record the same; and such land, while owned by any person residing without the limits of the town, shall be taxed in such districts until the town shall be districted anew: *Provided however*, That all the lands without any town, owned by the same person not living therein, shall be taxed in one and the same district. And the assessors shall assess, in the same manner as town taxes are assessed, on the polls and estates of the inhabitants composing any school districts, defined as aforesaid, and on lands in said town, belonging to persons living out of the same, which the assessors shall have directed to be taxed in such district, all monies voted to be raised by the inhabitants of such district for the purposes aforesaid, in thirty days after the clerk of the district shall certify to said assessors the sum voted by the district to be raised as aforesaid. And it shall be the duty of said assessors to make a warrant in due form of law directed to one of the collectors of the town to which such district belongs, requiring and empowering said collector to levy and collect the tax so assessed, and to pay the same, within a time to be limited in said warrant, to the treasurer of the town; to whom a certificate [see Form 85, with a little variation] of assessment shall be made by the assessors.

And the money so collected and paid, shall be at the

disposal of the committee of the district, to be by them applied for the building or repairing a school house in the district to which they belong. And such collector, in collecting such tax, shall have the same powers, and be holden to proceed in the same manner as is by law provided in collecting town taxes.

Sec. 3. The treasurer of any town to whom a certificate of the assessment of a district tax shall be transmitted as aforesaid, shall have the same authority to enforce the collection and payment of the money so assessed and certified, as if the same had been voted to be raised by the town for the town's use. And the treasurer and collector shall be paid the same commissions on the money collected and paid for the use of school districts aforesaid, and the assessors, for assessing said tax shall be allowed by the district, the same sum for each and every day while employed in assessing the same, as is allowed and paid by the town for similar services.

4. *Abatement of School District taxes.*

1811 C. 24. The assessors of the several towns and districts in this Commonwealth, be, and they hereby are vested with the same powers to *remit* sums of money assessed on the inhabitants of any school district, for the purpose of purchasing, building, repairing or furnishing school houses, as they have to *remit* any sums for defraying town or district expenses.

SCHOOLS.

HEADS.

1 Raising money for schools. 2 Apportionment of money for schools in towns containing *less* than *five thousand inhabitants.* 3 Towns containing *fifty families.* 4 Towns containing one *hundred families.* 5

Towns containing *one hundred and fifty families.* 6 Grammar Schools, in towns containing *two hundred families.* 7 Qualifications of School masters. 8 Duty of school masters. 9 Duty of Selectmen, Ministers and School committees. 10 Primary Schools.

1. *Raising money for Schools.**

1789 C. 19, Sec. 8. All *plantations* which shall be taxed to the support of government, and all *parishes* and *precincts* are hereby authorized and empowered at their annual meeting in *March* or *April* to vote and raise such sums of money upon the polls and ratable estates of their respective inhabitants for the support and maintenance of a school master to teach their children and youth to read, write, and cypher, as they shall think expedient to be assessed by their assessors in due proportion and to be collected in like manner with the public taxes.

2. *Apportionment of money for Schools in towns containing less than five thousand inhabitants.*

Act passed Feb. 18, 1824. Any town in this Commonwealth containing less than *five thousand inhabitants* is hereby authorized and empowered, if such town shall so elect at their annual meeting in *March* or *April, duly warned for the purpose,* to apportion the money such town shall raise for the support of public schools, to be applied for the support of such schools in the several districts in such towns *in such manner* as the town may judge to be best for the instruction of their youth. *Provided nevertheless,* that no town shall so avail itself of any of the provisions of this Act, as to diminish the term of time of public schools which such town is by law now required to maintain.

3. *Towns containing fifty families.*

1789 C. 19, Sec. 1. Every town or district containing *fifty families* or householders, shall be provided with a school master or school masters, of good morals

* *See Towns head 3,* and Parishes head 5.

to teach children to read, write, and to instruct them in the English language, as well as in arithmetic, orthography, and decent behavior, for such term of time as shall be equivalent to *six months* for *one school* in each year.

Sec. 6. If any town or district having the number of *fifty families*, or householders, and less than *one hundred*, shall neglect the procuring and supporting a school master or school masters to teach the English language as aforesaid, by the space of *six months* in *one year* such deficient town or district shall incur the penalty of *ten pounds* and a penalty proportionable for a less time than *six months* in a year upon conviction thereof.

4. *Towns containing one hundred families.*

1789 C. 19, Sec. 1. Every town or district containing *one hundred families*, or householders, shall be provided with such school master or school masters as above named, for such term of time as shall be equivalent to *twelve months* for *one school* in each year.

Sec. 6. Penalty for neglect *twenty pounds* as above.

5. *Towns containing one hundred rnd fifty families.*

1789 C. 19, Sec. 1. Every town or district containing *one hundred and fifty* families or householders, shall be provided with such school master or school masters, as above, for such term of time as shall be equivalent to *six months* in each year; and shall in addition thereto be provided with a school master or school masters as above described to instruct children in the *English language* for such term of time as shall be equivalent to *twelve months* for *one school* in each year.

Sec. 6. Penalty for neglect *thirty pounds* as above.

6. *Grammar School.*

JUDICIAL DECISIONS.

Commowealth vs. Dedham. Mass. Rep. vol. 16, *p. 141.* No person can be lawfully employed as a

school master, so as to protect the towns from prosecution, unless he first produce the certificate or evidence of his qualifications required by the statute of 1789 C. 19.

To constitute a *grammar school*, within the meaning of the statute, it must be duly regulated as to the admission of scholars; and the master must be engaged to keep a school of that description. A grammar school required to be maintained by every town having 200 families, must be kept for the use and benefit of *all the inhabitants* of the town.

STATUTE PROVISIONS.

1789 C. 19, Sec. 1. Every town or district containing *two hundred* families or householders, shall be provided with grammar school masters of good morals, well instructed in the Latin, Greek and English languages; and shall, in addition thereto, be provided with a school master or school masters, as above described, to instruct children in the English language, for such term of time as shall be equivalent to twelve months for each of said schools in each year. [See act of 1824, following.]

Sec. 6. Every town or district having *two hundred families*, or householders, and upwards, that shall neglect the procuring and supporting such grammar school master, as aforesaid, for the space of one year, shall incur the penalty of *thirty pounds*, and a proportionable sum for a less time than a year upon conviction of such neglect.

Act passed Feb. 18, 1824, Sec. 1. Any town in this Commonwealth containing less than *five thousand inhabitants*, and now required by law to be provided with a school master well instructed in the Latin and Greek languages, shall after the passing of this act, if such town shall so elect, at their annual meeting in March or April, duly warned for the purpose, be provided instead thereof with a teacher or teachers, well qualified to instruct youth in Orthography, Reading,

Writing, Arithmetic, English Grammar, Geography, and good behavior, whose qualifications shall be certified [see head 7.] in like manner as is provided by law in the case of public school masters in the Latin and Greek languages, any law to the contrary notwithstanding.

1789 C. 19, Sec. 3. No youth shall be sent to such grammar schools unless they shall have learned, in some other school or in some other way, to read the English language, by spelling the same; or the selectmen of the town where such grammar school is, shall direct the grammar school master to receive and instruct such youth.

7. *Qualifications of School Masters.*

1789 C. 19, Sec. 5. No person shall be employed as a school master as aforesaid, unless he shall have received an education at some College or University, and, before entering on the business, shall produce satisfactory evidence thereof, or unless the person to be employed as aforesaid shall produce a certificate [see Form 76.] from a learned minister, well skilled in the Latin and Greek languages, settled in the town or place where the school is proposed to be kept, or two other such ministers in the vicinity thereof, that they have reason to believe that he is well qualified to discharge the duties devolved upon such school masters by this act; and in addition thereto, if for a grammar school, "that he is of competent skill in the Greek and Latin languages for the said purpose." And the candidate of either of the descriptions aforesaid, shall moreover produce [see Form 76.] a certificate from a settled minister of the town, district, parish or place, to which such candidate belongs, or from the selectmen of such town or district, or committee of such parish or place, "That to the best of his or their knowledge, he sustains a good moral character." *Provided nevertheless*, This last certificate, respecting morals, shall not be deemed necessary where the candidate for such

school belongs to the place where the same is proposed to be actually kept; it shall however be the duty of such selectmen or committee, who may be authorised to hire such school master, specially to attend to his morals.

Sec. 10. No person shall be permitted to keep, any school described in the statute of 1789 C. 19, unless in consequence of an act of naturalization, or otherwise he shall be a citizen of this or some one of the United States. And if any person who is not a citizen of this or some one of the United States, shall presume to keep any such school within this state for the space of one month, he shall be subjected to pay a fine of *twenty pounds*, and a proportionable sum for a longer or shorter time.

8. *Duty of Instructors.*

1789 C. 19, Sec. 4. It shall be and it is hereby made the duty of the president, professors and tutors of the University at Combridge, preceptors and teachers of academies, and all other instructors of youth, to take diligent care, and to exert their best endeavors to impress on the minds of children and youth committed to their care and instruction, the principles of piety, justice, and a sacred regard to truth, love to their country, humanity, and universal benevolence, sobriety, industry and frugality, chastity, moderation and temperance, and those other virtues which are the ornament of human society, and the basis upon which the republican constitution is structured. And it shall be the duty of such instructors to endeavor to lead those under their care (as their ages and capacities will admit) into a particular understanding of the tendency of the before mentioned virtues, and to secure the blessings of liberty, as well as to promote their future happiness; and the tendency of the opposite vices to slavery and ruin.

9. *Duty of Selectmen, Ministers and School Committees.*

1789 C. 19, Sec. 7. It shall be the duty of the

minister or ministers of the Gospel and the selectmen (or such other persons as shall be specially chosen by each town or district for that purpose) of the several towns or districts, to use their influence and best endeavors, that the youth of their respective towns and districts do regularly attend the school, appointed and supported as aforesaid, for their instruction; and once in every six months at least, and as much oftener as they shall determine it necessary, to visit and inspect the several schools in their respective towns and districts, and shall inquire into the regulation and discipline thereof, and the proficiency of the scholars therein, giving reasonable notice of the time of their visitation.

10. *Primary Schools.*

1789 C. 19. Whereas schools for the education of children in the most early stage of life may be kept in towns, districts or plantations, which schools are not before particularly described in this act; and that the greatest attention may be given to the early establishing just principles in the tender minds of such children, and carefully instructing them in the first principles of reading:

Sec. 9. No person shall be allowed to be a master or mistress of such school, or to keep the same, unless he or she shall obtain a certificate [see Form 77.] from the selectmen of such town or district where the same may be kept, or the committee appointed by such town, district or plantation, to visit their schools, as well as from a learned minister settled therein, if such there be, that he or she is a person of sober life and conversation, and well qualified to keep such school. And it shall be the duty of such master or mistress carefully to instruct the children, attending his or her school, in reading (and writing if contracted for) and to instil into their minds a sense of piety and virtue, and to teach them decent behavior. And if *any* person shall presume to keep such school without

a certificate as aforesaid, he or she shall forfeit and pay the sum of twenty shillings, one half thereof to the informer, and the other half to the use of the poor of the town, district or plantation where such school may be kept. [See head 2, Ante.]

NOTE. For appropriation of penalties and manner of recovering the same, see the statute 1789 C. 19, Sec. 7, and 11.

SURVEYOR OF HIGHWAYS.*

OATH.

1786 C. 81.] *YOU solemnly swear, that you will faithfully and impartially perform all the duties incumbent on you as a Surveyor of highways, within and for the of the ensuing year.*

So help you God.

HEADS.

1 Choice. 2 Limits. 3 Incumbrances removed, &c. 4 Repairs and amendment of Highways, and town ways. 5 Exhibition of his rate bills to the Assessors. 6 When the sum assessed is insufficient. 7 When towns neglect to raise money. 8 Contracts for making or repairing roads. 9 Money remaining in a

*1786 C. 58. Plantations unincorporated, that are required to assess taxes on themselves for the support of Government—their duty, same as towns.

Towns having a population of eight hundred inhabitants. [See page 87.]

JUDICIAL DECISIONS.

Wood vs. Waterville, & Wood vs. Waterville. Mass Rep. v. 4, p. 422, and vol. 5 p. 294 A surveyor of highways may recover against his town, damages happening to him through a defect in the highways within his own district, unless the defect arose from his own neglect, in which case he shall not.

Austin & al. vs. Carter & al. Mass. Rep vol. 1, p. 231. The *authority of surveyors* of highways is confined to land.

Surveyor's hands unexpended. 10 In case towns are indicted.

1. *Choice.*

1786 C. 81, Sec. 1. There shall be chosen *two or more* suitable persons in each town, at the annual meeting in March or April, who shall be denominated surveyors of highways, to be notified and sworn in like manner as other officers of the same town, and in case of refusal to serve, shall forfeit and pay the sum of three pounds to the use of such town, district or plantation: *Provided* no person shall be held and obliged to serve more than one year in three years.

Sec. 10. Each surveyor of highways, who shall accept the said trust and shall neglect his duty therein, shall forfeit and pay for each neglect the sum of *three pounds*, one half to him that will prosecute therefor, and half to the use of the town whereof the delinquent is a surveyor, to be recovered by action of debt, before any Justice of the Peace for the same county.

2. *Surveyor's Limits, (see page 53.)*

3 *Incumbrances Removed, &c.**

1786 C. 81, Sec. 1. Surveyors chosen and sworn, shall have full power and authority to cut down, lop off, dig up and remove all sorts of trees, bushes, stones, fences, rails, gates, bars, enclosures, or other matter or thing that shall in any way straiten, hurt, hinder or incommode the highway, or town way, and also to dig for stone, gravel, clay, marle, sand or earth, in any land not planted or enclosed, and the materials thus dug up, to remove to such place or places in the high-

* Callender vs. Marsh. Pickering's Mass. Rep. vol. 1, page 418. A surveyor has authority by the statute to dig down or raise a street, and if he does it with discretion and not wantonly, a party injured cannot maintain an action against him, nor it seems against any other person. Such digging down and raising, *is not an alteration* within the meaning of the statute. *Amending, as there used,* comprehends *making* better.

ways for the repair and amendment thereof, as they shall determine necessary.

Sec. 11. Nothing in this act shall be construed, as to give power to any surveyor or other persons, to remove or pull down any fence which may be lawfully set up, or erected upon, or across any way, for the purpose of preventing the spreading of infectious disorders.

SNOW. Sec. 1. When the highways are blocked up, or incumbered with *snow*, the surveyors shall forthwith, cause so much thereof to be removed, or trod down, as will render the roads passable.

1796 C. 58. Whereas, by law it is made the duty of surveyors of the highways, when the same are blocked up or incumbered with *snow*, forthwith to cause so much thereof to be removed or trod down as will render the roads passable, which cannot be conveniently effected by a tax granted for that purpose.

Sec. 8. All such incumbrances may be removed in the manner the same might be done in any town or district who shall neglect to vote or agree upon a sum for the express purpose of repairing highways and town ways: *Provided*, That any town or district shall agree upon that mode of removing such incumbrances in the month of March or April, annually, any law to the contrary notwithstanding.

4. *Repairs and amendment of Highways and Town ways.*

1796 C. 58, Sec. 4. One half of the sum at least, which shall be agreed upon and granted by any town or district for making or repairing the highways, shall be laid out and expended for that purpose, *before the first day of July*, next after granting the same.

1786 C. 81, Sec. 3. The surveyor shall give reasonable notice (in writing [see Form 132.] if desired) to each person in his list, of the sum he is assessed to the highways and town ways, and also to the inhabitants within his district assessed as aforesaid, six days

notice, (extraordinary casualty excepted) of the times and places he shall appoint for providing materials, and laboring to the end, each person may have opportunity to work on the highways and town ways, in person or by his substitute, or with his oxen, horses, cart and ploughs, at the rates and prices the town shall affix to such labor to the full amount of the sum at which he is assessed: or he may pay the surveyor in money the sum he is assessed, in which case the surveyor shall carefully expend the sums thus paid, in labor and materials for repairing the highways and town ways in his limits according to his best discretion. And the surveyor *at the expiration of his term*, shall render to the assessors for the time being a list of such persons as shall have been deficient, (if any such there be) in working out their highway rate, or otherwise paying him the sums assessed therefor. [See head preceding, and assessors, head 5.]

NOTE. 1786 C. 81, Sec. 1. No surveyor of highways shall cause any watercourse occasioned by the wash of any highway or town way, to be so conveyed by the side of such highway, as to incommode any person's house, store, shop or other building, or to obstruct any person or persons in the prosecution of his or her business or occupation, without the approbation and consent of the selectmen of such town or other place, signified in writing, to such surveyor; and any person or persons, who may consider him or herself, to be aggrieved by such watercourse, may complain to the selectmen of such town or other place; and the selectmen on receiving such complaint, shall proceed to view such watercourse so complained of, and after attending to the circumstances of the same, shall if they think it reasonable, direct such surveyor to alter the said watercourse in such way and manner as they shall think just and proper.

5. *Exhibition of his rate bills to the Assessors.* Surveyors of highways must exhibit their rate bills

to the assessors on the first Monday in July, annually, and at the end of their term. [See page 87.]

6. *When the sum assessed is insufficient.*

1786 C. 81, Sec. 4. When the sum appropriated and assessed for the repair of the highways and town ways, in the limits of any particular surveyor, shall not fully answer, or be insufficient for that purpose, it shall be lawful for the surveyor with the consent of the selectmen, or the major part of them, where such deficiency happens, to employ such of the inhabitants of the town, upon the repair of the ways in his limits as shall make up that deficiency; and the persons thus employed shall be equitably paid out of the town treasury thereof.

7. *When towns neglect to raise Money.*

1786 C. 81, Sec. 8. If any town shall neglect to vote or agree upon a sum to be assessed for the express purpose of repairing and amending the highways and town ways, or shall not otherwise provide for effectually amending and repairing such ways, each surveyor shall assign to the several persons in his limits, their ratable proportion of days works, and of cart, team and plough, according to his real and personal property, as near as he can, and shall assign certain days for amending and repairing the ways, having regard to the season of the year, and give notice [see Form 133.] thereof to the persons in his limits, upwards of *sixteen years* of age, and liable by law to be taxed, *six days* at least before the time assigned (except in extraordinary cases,) to attend the service with suitable tools, and with carts and teams, (if any they have) the notice to be in writing and delivered the person, or left at his usual place of abode.

If any person, being thus notified shall make default of attending and working by himself or other sufficient person in his stead, or with his cart and team, as he shall be appointed and assigned, he shall forfeit and *pay five shillings* for each days neglect, and for default

of his cart and team with the driver, ten shillings a day, and in that proportion for a longer or shorter space of time, one moiety to the use of the town, to be expended on the highways and town ways as the selectmen shall order, and the other moiety to the use of the surveyor, to be recovered by complaint before any Justice in the same county. *Provided*, The same be made in one year after the forfeitures are incurred, and not afterwards, according to the form hereafter prescribed; in which prosecution, the surveyor may be admitted as an evidence, as to the time and manner of notice, and the quantum of labor assigned to the adverse party.—And the penalties incurred by servants or minors shall be recovered of the parents, masters, or guardians, under whose immediate care and control they may then be.

Sec. 9. The surveyor's complaint shall be in the form following. [See Form 134.]

Upon which complaint the Justice may issue a warrant to some sworn officer, to notify the respondent at a time and place therein mentioned, to appear and show cause, if any he have, wherefore a warrant of distress should not issue; which warrant may be served by reading the same with the complaint annexed, to the respondent, *seven days* at least before the day assigned for a hearing, or leaving an attested copy thereof at the respondent's usual place of abode, *seven days* or more before the day of trial; and if the respondent, being notified as aforesaid, shall not appear, or appearing shall not in the opinion of the Justice, (from whose determination herein no appeal shall be made,) shew sufficient cause, he shall enter up judgment thereon, that a warrant of distress issue for such or so much of the sums prosecuted for, as shall appear forfeited, and costs. But in case the respondent shall make it appear, that he was unreasonably assessed, or that he was not duly notified [see Form 135.] thereof, or shall make any other legal or sufficient excuse to exempt him fully from the forfeitures, the Justice shall enter up

judgment, that the respondent be acquitted and discharged from the forfeitures for which he is now prosecuted, and that he recover against the complainant his costs. And the warrant of distress for levying the forfeitures, when the same shall appear to be incurred, shall run in the form herein prescribed.

1796 C. 58, Sec. 4. When any town, district or plantation, shall neglect to raise money for the purpose of making and repairing the highways and town ways, as aforesaid, it shall be the duty of the several surveyors in such towns to cause so much labor to be done on the said ways, in their respective districts before the first day of July, as shall amount to one half at least of the expenses of repairing said ways the year next preceding.

8. *Contracts for making or repairing Roads.*

1796 C. 58, Sec. 5. Every town or district may, at their annual meeting, or any meeting warned for that purpose, authorize their surveyors or any other person or persons, to enter into any contract or contracts for making or repairing the highways or town ways within the same or any part thereof; and may also empower their surveyors of highways to collect taxes for making and repairing the ways, which shall not be paid in labor or otherwise, within the time limited by law, or such periods as may be agreed upon by such town or district; and for that purpose the assessors shall deliver to them warrants of distress, which shall be in the form prescribed by law for collecting other town or district taxes, *mutatis mutandis;* or they may deliver to the collector or collectors of taxes a warrant for collecting the deficiency in any highway tax, which the collector is hereby empowered and required to levy in the same way and manner as other taxes are by law to be collected, and pay the same over to the surveyor or surveyors, who shall be held to account with the selectmen for the expenditure thereof.

NOTE. Sec. 6. Towns are allowed a reasonable

time, not exceeding *one year*, to make a road passable, safe, &c.

9. *Money remaining in a Surveyor's hands unexpended.*

Sec. 5. If any money shall remain unexpended in the hands of any surveyor or surveyors after the expiration of their office, they shall pay the same to the town treasurer. And if any surveyor shall neglect to pay over such sums to the said treasurer upon demand, the said treasurer, or his successor in that office, shall have power to recover the same in action upon the case, with twenty *per cent.* in addition thereto, to the use of the town or district, and with costs of suit.—And if, pending the action, another town or district treasurer shall be appointed, he, on noting his appearance on the record, shall have power to pursue the same action to final judgment and execution.

10. *In case towns are Indicted, &c.*

1786 C. 81, Sec. 11. In case the inhabitants of any town shall be fined upon the presentment of the grand jury, or upon the information of the attorney general, or the person acting for the government in his absence, for a deficiency in the highways, the surveyor within whose limits the deficient ways are, shall be liable to refund the same with all costs, to the said inhabitants, upon an action of the case to be brought therefor; or the surveyor of the highways may be prosecuted on presentment or information as aforesaid, and fined for any deficiency that may arise in his limits. And the inhabitants of any town merely as such shall not be excluded from being witnesses upon any prosecution upon this statute, upon a supposition of being interested as members of the corporation.

JUDICIAL DECISION.

Wood vs. Waterville. Mass. Rep. vol. 5, p. 294. A surveyor of the highways is by law effectually to repair the ways within his district, and when the town does not make sufficient provision he has his remedy *against the inhabitants.*

FIELD DRIVER.*

OATH.

YOU solemnly swear, that you will faithfully discharge the duties of your office as a Field Driver, within and for the town of the ensuing year.
So help you God.

HEADS.

1 Choice. 2 Field Driver may Impound. 3 Private persons may Impound. 4 Proceedings when the owner is known. 5 Proceedings when the owner is unknown. 6 Rescue and Pound Breach. 7 Horses. 8 Sheep and Goats. 9 Towns may restrain cattle, &c. under a penalty.

1. *Choice.*

1788 C. 65, Sec. 2. There shall be chosen at the annual meeting for the choice of the town officers in each town, *two or more* persons for field drivers, who shall be sworn to the faithful discharge of their trusts.

2. *Field Drivers may Impound.*

Sec. 2. Field drivers thus chosen and sworn, are hereby severally authorised and empowered, to take up and impound any swine† unyoked or unringed, horses‡ unfettered, sheep‖ not under the care of a shepherd, or going at large on the common, or highways, leading

*Stackpole and another vs. Healy. Mass. Rep. vol. 16, page 33. The public have no rights in the highway, but a right to pass and repass thereon; they cannot therefore justify turning their cattle thereon for the purpose of grazing And if cattle, so on the highway, for the purpose of grazing, escape into the adjoining close, the owner of the cattle cannot avail himself of the insufficiency of the fence, in excuse of the trespass.

† Further duty respecting swine, see Hog Reeve.

‡ Further duty respecting horses, see head 7.

‖ Further duty respecting sheep, see head 8.

through such town between the fifteenth day of April and the first day of November, and them in pound detain, or deal with as is herein after mentioned, until the owner shall pay, for the use of the field driver, *one shilling** a head for all such horses, *three pence** a head for all sheep and swine, besides *two pence* a head for all such horses, and *one penny* for all sheep and swine, to the pound keeper [see pound keeper.] who may have the care of the particular pound in which they may be restrained. [See head 9, for further duty.]

NOTE. This section does not extend to neat cattle.

3. *Private persons may Impound.*

Sec. 3. *Any person* injured in his tillage, mowing or other lands under improvement, that are enclosed with a legal and sufficient fence,† whether such improved lands be in a common or general field, or in a close by itself, by swine, sheep, horses, or neat cattle,‡ may have and maintain an action of trespass *quare clausum fregit*, against the owner of the cattle for his damages; or he may impound the creatures doing the damage, or some of them, at his election, with or without the aid of a field driver; and in case he impound the creatures he may restrain them in one of the town pounds, or in some other place under his immediate care and inspection, as may be most convenient for relieving them with suitable meat and water; which re-

* See head 7 and 8, *three shillings* for horses and *five cents* for sheep.

† For what constitutes a legal fence, see fence viewer, head 2

JUDICIAL DECISION.

† Rust vs. Low, & Stanwood & Melody vs Reab. Mass. Rep. vol. 6, p. 90, and vol. 4, p. 471. "The tenant of a close is not obliged to fence, but against cattle rightfully on an adjoining close. If all the fence is insufficient, yet if cattle do not escape through the insufficient fence, but are turned in, they may be lawfully distrained *damage feasant.*

‡ *Penalties for* neat cattle see head 9.

lief it shall be the duty of the person impounding to furnish, or cause to be sufficiently furnished, during their confinement.

4. *Proceedings when the owner is known.*

Sec. 4. When any of the creatures aforesaid shall be impounded, whether it be done for being at large out of the owner's inclosure, or for doing damage as aforesaid, the person impounding shall inform the owner of the creatures impounded (if known) within the space of *twenty four hours*, by giving him a notification [see Form 136 and 137] thereof in writing or otherwise; and in case the owner of the creatures impounded be absent, such written notification shall be left at his house or usual place of abode, *describing* the creatures, and specifying the *time*, *place* and *cause* of impounding, and the person impounding shall also leave with the pound keeper, if they are in the town or district pound, at the time such creatures are committed to his custody, a *memorandum*, [see Forms 140 and 141] in writing under his hand, of the cause of impounding, and the sum he demands in damages from the owner before they are liberated: And no action shall be maintained against the pound keeper, for detaining such creatures, until that sum, with his lawful fees, shall be paid. *Provided nevertheless*, That if the person whose creatures are impounded, *damage feasant*, shall think the damages mentioned in the memorandum left with the pound keeper, are unreasonable, he may have the same ascertained by two or more disinterested, judicious persons being thereto appointed [see Form 18] and duly sworn [see Forms 19 and 20] by some Justice of the Peace for the same connty, or by the town clerk where no Justice of the Peace is; which sums thus ascertained shall be taken instead of the sum first left with the pound keeper. And if the owner doth not within *twenty four* hours after notice as aforesaid, pay the damage and charges, of impounding or replevy the creatures, the party trespassed upon

may, apply to a Justice of the Peace, or the town clerk for a warrant, [see Form 21] directed to two or more disinterested judicious persons, which warrant the town clerk of the same town or any Justice of the Peace in the same county, may issue and make returnable into the town or district clerk's office of the same town or district as soon as the business is performed, and may also administer an oath [see Form 22] unto the persons appointed faithfully and impartially to estimate the damage done the party injured, and also to appraise so many of the creatures impounded as shall be sufficient to answer the damages and all charges. And the party damnified, after the persons appointed as aforesaid, shall have ascertained the damage, and valued such of the creatures as shall be necessary to satisfy the same and charges, and have made returns [see Form 23] of their warrant into the clerk's office with their doings thereon, may retain and keep the creature or creatures, so appraised, to his own use, or may sell the same at public auction to the highest bidder, notice of such sale being posted up at some public place within the same town or district *twenty four hours*, beforehand, and in either case returning the overplus, if any there be, to the owner, and shall liberate the remainder of the creatures impounded.

5. *Proceedings when the owner is unknown.*

But in case the owners of the creatures impounded be unknown, the person impounding shall cause the same to be publicly cried, or notifications [see Form 138] thereof, as aforesoid, posted up in some *public places* in the *town* or *district*, and in the *two next towns* or districts adjoining, in case the distance thereunto from the place where the creatures may be taken up doth not exceed *four miles ;* and if no owner or claimer appear within the space of *three full days* next after the impounding and notifying as aforesaid, then the *person so* restraining them may proceed with them in

all respects as the law provides respecting strays,* after having his damages ascertained, in case the cattle be taken *damage feasant*, in manner as is before provided.

NOTE.—Sec. 5. When any action of trespass shall be brought against the owner of any of the creatures aforesaid, for damages by them done upon his inclosed lands under improvement, or when such creature taken damage feasant and impounded, shall be replevied,† it shall be in the power of the Justice or Court, before whom the cause shall be determined, to render judgment in favor of the person demanding damages for the injury sustained upon satisfactory evidence being produced that such creatures were either clandestinely *turned in* or broke into the close in a *part where the fence was good and sufficient*, according to law, some other parts of the fence round the same close being deficient notwithstanding.

7. *Rescue and Pound Breach.*

Sec. 6. If any person shall *rescue* any creatures taken up as aforesaid, out of the hands or care of the field driver, or from the hands of any other person being about to drive or convey them to pound, whereby the party injured may be in danger of losing such his remedy, and the law evaded, the person thus offending shall, for such rescue, forfeit and pay the sum of *forty shillings*, to be recovered by action of debt, one half part to him or them that will sue for the same, and other half part to and for the use of the county within which the offence is committed, and be further liable to pay the party injured the full damages he might be entitled to recover, by impounding such creatures in an action of the case. And if any person shall make any *pound breach*, or by any indirect way or manner whatever convey or deliver any of the creatures aforesaid, impounded, from the pound or place where they may

* Strays—see page 21.

† Replevin act 1789 C. 26, see the statute.

at large without being fettered as this act requires, is unknown; in such case, the field driver, or any other person, may impound them, and otherwise proceed with them as the law directs, in the case of *stray beasts:* [see page 23.] And when the owner appears to demand such horse, he shall pay the three shillings forfeiture for each horse kind unlawfully at large for the uses aforesaid, before delivery. *Provided always*, That it shall be in the power of any town at the annual town meeting in March or April, by a vote thereof, to grant liberty for horses to go at large *without fetters*, within the bounds of such town, or in such parts and divisions thereof, as the town shall determine most for the benefit of the inhabitants between the said *fifteenth* day of April and the *first* day of November, in which case it shall be lawful for any person residing therein to suffer his horse to go at large *unfettered* accordingly, without incurring the forfeiture aforesaid. *Provided further*, That no horse of the male kind, being ungelded and more than one year old shall be permitted to go at large on the common or highways with or without fetters, and the owner of any such ungelded horse so going at large, shall forfeit *twenty shillings*, to be recovered in the manner and for the uses herein before prescribed.

1793 C. 19. Every clause and part of the statute of 1788 C. 44 shall extend to *asses* and *mules*, and the same proceedings shall be had with respect to them as are provided in that statute with respect to horses.

NOTE.—When horses are appraised under *twenty dollars*, they must be sold at auction, in case—see page 24.—Further laws respecting horses—see under Field Driver heads 2, 3 and 9: likewise page 23.

8. *Sheep and Goats.*

RAM, OR HE GOAT.—1796 C. 65, Sec. 1. If any owner of any ram or he goat shall suffer the same to go at large, or be out of his or her inclosure between *the tenth* of August and the twentieth day of November

annually, such owner shall forfeit and pay *two dollars* to such person who shall find and take up such ram or he goat for each time he shall be so found at large out of the owner's inclosure and taken up; and the same may be recovered by action of debt with costs of suit before any Justice of the Peace of the county where such ram or he goat shall be so taken up, or of the county where such owner may dwell; and in case the owner shall not be known the person so finding and taking up any ram or he goat as aforesaid shall secure and keep the same, and within *twenty four hours* after shall lodge notice [see Form 139] in writing by him signed, with the town clerk, setting forth the color and marks natural and artificial (if such there be) which clerk shall make a record thereof and post up or direct the finder to post up the same at some such public place in said town as the clerk shall fix upon; and for his service herein shall have *twenty five* cents paid him by the person lodging said notice. And in case the owner of any ram or he goat so found, taken up and posted, shall within *five days* next after such posting, pay or tender, to the party so taking up the same, the said forfeitures, such ram or he goat shall be restored to the owner; but if the owner do not appear and pay or tender as aforesaid within the said *five days*, such ram or he goat shall be forfeited to the prosecutor; and if such owner shall be convicted of a second offence he shall incur the like forfeiture to the prosecutor: *Provided*, That this act shall not extend or be construed to extend to the island of Nantucket, or any part thereof.

SHEEP.—Sec. 2. If any person shall suffer his or her sheep to go at large on the common or ways in any town or district *without being under the care of a shepherd* or keeper, such person shall forfeit and pay for each sheep so at large and without a keeper *five cents* to the person injured, to be recovered by action on the case, with costs of suit, or the same may be impounded, at his election, and the owner shall not re-

gain them, but on the payment of *five cents* for each sheep.

Sec. 3. It shall be the duty of the field drivers in each town or district when sheep shall be found so going at large and without a keeper, to impound the same, and when the owner shall appear, to demand *five cents* for each sheep so impounded; and if no owner appereth within *forty eight* hours to proceed with them as the law directs respecting stray beasts. [See Town Clerk, head 12.]

Sec. 7. All laws heretofore passed respecting sheep, rams, and he goats are hereby repealed.

9. *Towns may restrain Cattle, &c. under a penalty.*

1799 C. 61. The inhabitants of any town within this Commonwealth may, at any town meeting legally holden for that purpose, order and direct that neat cattle, horses or horse kind, mules or asses, shall not go at large, within the limits of such town without a keeper, under a penalty thereof of *twenty five cents*,* for each beast, at any one time so found at large, which penalties may be recovered, with costs, by any inhabitant of such town, to his own use, by impounding such beast, and proceeding therewith in manner as is provided in cases of cattle found damage feasant.

1804 C. 44, Sec. 1. The inhabitants of any town within this Commonwealth may, at any town meeting legally holden for that purpose, order and direct that any particular description of neat cattle, or other commonable beasts, shall not go at large, within the limits of such town, without a keeper, under the penalty mentioned in the above Act to which this is in addition, and to be recovered in the manner therein prescribed, for each beast found going at large without a keeper contrary to the order and direction of any town as aforesaid.

Sec. 2. If any person or persons shall turn out, or suffer cattle or beasts so restrained as aforesaid

* *Fifty cents*, by the statute of 1817 C. 143.

from going at large, to go at large on the Lord's day, with or without a keeper, such person or persons shall forfeit and pay *fifty cents* for each beast so turn-out or suffered to go at large, to be recovered by action of debt, by any inhabitant of such town, who will sue for the same, and for his sole use. And it is also hereby made the duty of all field drivers, within their respective towns and districts, to carry the provisions of this Act into effect.

Sec. 3. If any person shall suffer any such cattle or beasts belonging to him, or in his keeping to go at large, contrary to the order and direction of any town, made pursuant to the authority given in this Act and the above Act to which this is in addition, and any such cattle or beasts shall within such town do damage on the improved lands of any person, the person so suffering such cattle or beasts to go at large, shall be liable to pay all damages so done by such cattle or beasts, to be recovered by the person suffering such damage, in an action of trespass, before any court proper to try the same, whether such improved lands be enclosed with a sufficient fence or not.

HOG REEVE.

OATH.

YOU solemnly swear, that, you will faithfully and impartially perform all the duties incumbent on you as a Hog Reeve within and for the town of the ensuing year. So help you God.

1788 C. 56, Sec. 1. There shall be appointed at the annual meeting in March or April in each town in this Commonwealth *two or more* persons for hog reeves, who shall be chosen and sworn, in the same manner as other town officers, whose duty it shall be to carry the regulations made by this Act into execution; and any

person who shall suffer his swine to go at large out of his inclosure shall forfeit and pay *one shilling* for each swine thus suffered to go at large, to be recovered with costs of suit by any hog reeve or other person, who will sue therefor before any Justice of the Peace in the same county by action of debt, or by impounding such swine. And when swine are impounded, to recover the penalty incurred by this Act, the owner, if known shall be notified in the time and manner by law directed, [see Forms 136 and 137] and if unknown, such notice of the time, place and cause of impounding shall be given as the law in that case hath directed; [see Form 138] and if no owner appear within *three full days* after the impounding to pay the forfeiture and charges and reasonable expense of keeping, or to replevy such swine, the impounder may in writing [see Forms 142 and 143] apply to a Justice of the Peace of the same county, or to the clerk of the same town, and there file an information of the transaction upon oath: and if it shall appear, from such information, to the satisfaction of the Justice or clerk that such impounder has complied with the directions of the law, in such cases, then such Justice or clerk may issue a precept in form as hereafter prescribed, to any constable of the same town, if the constable himself is not the impounder, or interested; and if he is, to any other discreet or disinterested inhabitant of the same town, to sell the swine, and after paying the impounder the fine and costs and expenses, to be taxed and allowed by the Justice or clerk, to deliver the surplusage into the town treasury there to remain for the owner, deducting *one shilling* on the pound for the treasurer's trouble in case he shall appear and claim it within one year and a day from the time of issuing such precept, but in case no owner appear within that time such surplusage shall be one half to the impounder and the other half to the poor of the town, and to be by the treasurer distributed accordingly.

Sec. 2. The form of the precept to be issued for

selling swine impounded, to recover the forfeiture incurred by a breach of this Act shall be in substance as follows: [see Forms 24 and 25.]

When the precept is directed to a particular person by name, because the constable himself is the impounder or interested, such person shall be sworn faithfully and impartially to execute it according to the tenor thereof.

Sec. 3. Any town may at the annual meeting in March or April by a vote thereof give liberty for swine to go at large during the whole or part of the year, in such town, or in such parts thereof as the town shall determine most for the benefit of the inhabitants; in which case it shall be lawful for any person *residing therein* to suffer his swine to go at large accordingly without incurring the forfeiture aforesaid, any thing in this Act contained to the contrary notwithstanding.

Sec. 3, and 1796 C. 70. No person shall suffer his swine to go at large under a vote of any town, without incurring the forfeitures therein provided, unless such swine be sufficiently yoked, at all times, when permitted to go at large, as aforesaid, between the *fifteenth* day of March and the *first* day of December annually and constantly ringed in the nose, all the time they shall be permitted to go at large.

NOTE.—1788 C. 56, Sec. 4. A yoke which is the full depth of the swine's neck, above the neck, and half so much below the neck, and the soal or bottom of the yoke full three times as long as the breadth or thickness of the swine's neck upon which it shall be placed, shall be deemed a sufficient yoking, within the meaning of this act.

Further acts respecting swine—see Field Driver, heads 2 and 3.

POUND KEEPER.

No oath is required of a pound keeper.

1788 C. 65, Sec. 1. There shall be kept and maintained in each town at their proper cost and charge, a sufficient pound or pounds, in such place or places therein as the town shall direct, who shall appoint a suitable person to keep such pound, wherein swine, sheep, horses and neat cattle may be restrained and kept. And towns that shall neglect to provide and maintain such pound for the space of *six months* shall forfeit and pay to the use of the county, *ten pounds* to be recovered by presentment of the grand jury.

Sec. 4. He must detain the creatures until his fees and the sum mentioned in the memorandum, [see Forms 140 and 141] which must be left with him, are paid.—See Field Driver, page 195.

NOTE.—In case of pound breach, see Field Driver, head 7.

Fees.—Horses, two pence per head, see page 194.

Swine, one penny per head.—*Ibid.*

Sheep, one penny per head.—*Ibid.*

FENCES AND FENCE VIEWERS.*

OATH.

YOU solemnly swear, that you will faithfully discharge the duties of your office as a fence viewer, within and for the town of the ensuing year.

So help you God.

* 1783 C. 40, Sec. 3. All tenants in dower shall maintain the houses and tenements with the fences and appurtenances whereof they may be endowed, in good repair during the term, and shall leave the same so at the expiration thereof.

* 1785 C. 61. Fences and buildings on public landing places are deemed nuisances.

HEADS.

1 Choice, and proceedings in case of refusal. 2 Legal Fences. 3 Fences to be maintained in equal halves, and proceedings in case of refusal. 4 When a dispute arises about the respective occupant's right in partition fences. 5 Division of fences may be made by parties—persons may lay lands common, in case. 6 In case a person lays his land common. 7 Proceedings when two persons own land in *severalty*, and have improved it in common, and one is desirous of a partition fence. 8 When lands are divided by a brook, pond, or creek. 9 Water Fences. 10 House Lots. 11 When lands lay on the boundary line between towns. 12 Fees.

1. *Choice.*

1785 C. 52, Sec. 1. In every town and district, there shall be chosen annually by the inhabitants thereof at the time of their meeting for the choice of town officers, two or more judicious and discreet *freeholders*, being inhabitants of the same town or district, to be *fence viewers*, to be sworn as other town officers are sworn, to the faithful discharge of the duties of their office, each of whom in case of refusal, after *seven days'* notice shall pay a fine of *thirty shillings*, and another person shall be forthwith chosen in his stead; the fine to be to the use of the same town or district.

Sec. 8. Any fence viewer duly chosen and sworn, who, on due notice given him, and being requested by any person interested to view any fence complained of as insufficient, shall neglect forthwith to attend the same, shall forfeit and pay the sum of *twenty shillings*, to him or them who shall sue for the same, within *forty days* after such neglect.

2. *Legal Fence.*

Sec. 2. All fences of four feet high and in good repair, consisting of rails, timber, boards, or stone walls, and also brooks, rivers, ponds, creeks, ditches & hedges,

or other matter or thing equivalent thereto, in the judgment of the fence viewers, within whose jurisdiction the same shall lie, shall be accounted legal and sufficient fences.

3. *Fences to be made in equal halves, and proceedings in case of refusal.*

1785 C. 52, Sec. 2. The respective occupants of lands inclosed with fence, shall keep up and maintain partition fences between their and the next adjoining inclosures, in *equal halves*, so long as both parties continue to improve the same, and in case either party shall neglect or refuse to repair or rebuild the fence which of right he ought to maintain, the aggrieved party may forthwith apply [see Form 145.] to two or more fence viewers, of such town, duly chosen and sworn to survey the same; and upon their determination that the fence is insufficient, they shall signify [see Form 146.] the same, in writing, to the occupant of the land, and direct him to repair or rebuild the same within six days; and if the same fence shall not be repaired or rebuilt within the said term of six days, it shall be lawful for the complainant that improves the lands adjoining, to make up, amend or repair the deficiency; and when the same shall be completed and adjudged sufficient by two or more of the fence viewers, and the value thereof, together with the fence viewers' fees ascertained in writing, the complainant shall have a right to demand and receive of the occupant, lessor, or freeholder of the land where the fence was deficient as aforesaid, at his election, *double the sum* thus ascertained as aforesaid, for the expense of amending, surveying and viewing the fence; and in case of refusal or neglect to make payment thereof for the space of *one calender month* after demand made of the persons against whom he shall make his election, he may sue for and recover the same by a special action of the case in any court proper to try the same, and interest, one *per cent.* per month until judgment shall be rendered *therefor.*

4. *When a dispute arises about the respective occupants' right in partition fences.*

Sec. 3. When any dispute shall arise about the respective occupants' right in partition fences and his or their obligation to maintain the same, upon application made by either party to two or more fence viewers of such town where the lands lie, they are hereby empowered after due notice [see Form 147.] to each party to attend at time and place, if they see cause, to assign* to each party his share thereof, in writing: which assignment being recorded in the town clerk's office, shall be binding upon such persons, and the succeeding occupiers of the respective lands, and they obliged always thereafter to maintain their part of said fence; and in case any of the parties shall refuse or neglect, to erect, keep up, and maintain, the part to such party assigned, the same may be done by the aggrieved party in the manner before in this act provided, and for which, he shall be entitled to double the sum ascertained in manner as aforesaid, and to be recovered in like manner.

And all divisional fences between man and man, shall be kept in good repair *throughout the year*, unless occupiers of the lands on both sides shall otherwise agree.

5. *Division of fences may be made by parties—persons may lay lands common, in case—(see also next head.)*

Act passed Feb. 6, 1823. In all cases where a division of fence between the owners of improved lands has been made either by fence viewers, or by agreement, in writing, between the parties, and recorded in the office of the clerk of the town wherein such lands are situated, and in all cases where a division of fence between the owners of improved lands shall hereafter be made either by fence viewers, or by agreement in writing between the parties, and recorded as aforesaid, the several owners of all such lands and their several

*See Form 148.

heirs and assigns forever, shall be holden to erect and support said fences agreeable to such division.

Provided, That if any person shall lay his lands common and not improve any part of the same adjoining the fence that may have been divided aforesaid, by giving *six months* notice of his intention to all the adjoining occupants of lands, he shall not be holden to keep up or support said fence during the time his lands shall thus lay common and unimproved.

6. *In case a person lays his land common—likewise payment for fences.*

1785 C. 52, Sec. 6. When one party shall cease to improve his land or shall lay his inclosure before under improvement, in common, he shall not have a right to take away any part of the partition fence that to him belongs, adjoining to the next inclosure that is improved: Provided that the party continuing to improve will allow and pay therefor, so much as two or more fence viewers shall, *in writing* [see Form 149.] determine the reasonable value thereof. And whenever any lands which have laid unimproved, and in common, shall be afterwards inclosed or improved by depasturing, the occupant, lessor or freeholder thereof shall pay for the one half of each partition fence standing upon the divisional line between the same land and the land of the inclosures of any other occupant or proprietor, the value and part thereof to be ascertained, in writing, in case they shall not agree between themselves, by two or more of the fence viewers of the same town wherein such line lies; and in case such occupant, lessor, or proprietor as aforesaid, shall neglect or refuse to pay for a moiety of the partition fences, for the space of thirty days after demand made (the value having been ascertained as aforesaid) the proprietor of the fence may have and maintain in form aforesaid, an action of the case for such value and the costs of ascertaining the same.

7. *Proceedings when two persons own land in severalty, and have improved it in common, and one is desirous of a partition fence.*

Sec. 5. Where any lands belonging to two persons in severalty, shall have been improved in common without a partition fence between them, and one of the occupants shall be desirous [see Form 150.] to improve his part in severalty, and the other occupant shall refuse or neglect on demand, to divide the line where the fence ought to be built, or to build a sufficient fence on his part of the line when divided, it shall be in the power of the party desiring it, to have the same divided and assigned by two or more of the fence viewers of the same town, in the way and manner in this act provided; and the same fence viewers may, in writing, assign a reasonable time, having regard to the season of the year, for making up the fence; and if the occupant complained of shall not build and erect his part of the fence within the time so assigned, it shall and may be lawful for the other party, after having made up his own part of the fence, to make up the other's part, and recover therefor double the sum it shall cost, with the fees of the fence viewers, in the way and manner in this act provided.

8. *When lands are divided by a brook, pond, or creek.*

Sec. 4. When lands belonging to, or occupied by different persons, and subjected to be fenced, are bounded upon, or divided from each other by any brook, pond or creek, which of itself is not a sufficient fence in the judgment of the fence viewers, and it is in their opinion impracticable without unreasonable expense for the partition fence to be made in the middle or other part thereof, being the true boundary line between them; if, in such case, the occupant of the land on one side shall refuse or neglect to join with the occupant of the land on the other side in making a partition fence on one side or the other, or shall disagree respecting the same, then two or more fence viewers of

the town or towns wherein such lands lie, on application to them made, shall forthwith view such brook, river, pond or creek; and if they shall determine the same not to answer the purpose of a sufficient fence, and that it is impracticable to fence at the true boundary line; they shall judge and determine how, or on which side thereof the fence shall be set up and maintained, or whether partly on one side and partly on the other side, as to them shall appear just, and reduce such their determination to writing, having first given notice to the parties to be present at such assignment; and if either of the parties shall refuse or neglect to make up and maintain the part of the fence to such party belonging, according to the fence viewers' determination in writing, as aforesaid, the same may be done and performed, as in this act is before provided, and the delinquent party subject to the same costs and charges, and to be recovered in like manner.

9. *Water Fences.*

Sec. 7. When a water fence, or fence running into the water is necessary to be made, the same shall be done in *equal halves*, unless by the parties otherwise agreed; and in case either party shall refuse or neglect to make or maintain the share to such party belonging, similar proceedings shall be had, as in other cases of the like kind respecting fences out of the water, in this act mentioned.

10. *House Lots.*

Sec. 7. Nothing in the statute of 1785 C. 53, contained shall extend to house lots, the contents of which do not exceed half an acre; but if the owner or owners of such lots shall improve, his neighbor shall be compellable to make and maintain one half of the fence between them whether he improve or not; or to make void any written agreement respecting the making or maintaining partition fences.

11. *When lands lay on the boundary lines between towns.*

Sec. 6. In all cases where the line upon which partition fence is to be made or divided is the boundary line of one or more towns, or partly in one town and partly in another, a fence viewer shall be taken from each town.

12. *Fees.*

Sec. 8. Each fence viewer shall be paid five shillings a day, two shillings eight pence for half a day, and under that, one shilling and six pence, for the time he shall be engaged in the business of his office, by the person employing him, and in case the complainant shall neglect to pay the fence viewers their legal fees within thirty days after service done, they may severally recover by an action of the case *double the amount* of such fees, and each fence viewer may be a witness for or against his companion in such suit.

SEALER OF WEIGHTS & MEASURES.

OATH.

YOU solemnly swear, that you will faithfully and impartially perform all the duties incumbent on you as a Sealer of Weights and Measures within and for the town of the ensuing year.

So help you God.

1799 C. 60, Sec. 4. The selectmen must appoint [see Form 78.] a sealer of weights and measures in the month of March or April annually, and when towns vote in the month of March or April to have more than one, the selectmen are to appoint them. And in case of any vacancy which shall happen in the office of sealer, by *death*, removal, resignation or refusal to ac-

cept, the selectmen are immediately to appoint another person to fill the place. The selectmen are authorized *to remove from office* any person appointed by them to the office of sealer.

Each person who shall be appointed to such office, shall be notified of his appointment, and sworn as other town officers are. And if any person so appointed and notified, shall refuse or neglect to take such oath, for the term of *seven days* after he shall have received such notice, he shall forfeit and pay *five dollars*, to be recovered in the manner, and to the uses other fines are, for refusing to serve in other town offices. And if any selectman shall not duly execute this law so far as to him appertains, he shall forfeit and pay for each months' neglect, the sum of *ten dollars* to be recovered in like manner and to the uses.

Sec. 5. As soon as the sealer is appointed and sworn it is his duty to receive of the town or district treasurer, the town or district standards and seal, and to give him a receipt therefor, expressing the contents thereof and the condition in which the same may be, and in such receipt, engaging at the expiration of his (the said sealer's) office to deliver the same in like order and condition to the said treasurer or his order; and such sealer shall be accountable to the town or district for the due preservation of the same, so long as he shall hold them on such receipt.

Sec. 6. It is his duty in the month of May annually, to post up [see Form 155.] *written notifications*, in the several parts of the town or district, expressing therein the time and place, when and where he will attend such of the inhabitants as live within the limits described in his notification, and seal all such of their great and small beams, weights and measures, as they shall bring in for that purpose. And the said sealer shall be entitled to demand and receive for trying and proving by said town and district standards, and sealing *as aforesaid, three cents* for each beam weight and measure *found* to be not conformable to said standards, and

one cent and *five mills* for each beam, weight and measure, found to be conformable thereto. And the said sealer shall deface and destroy all weights and measures which cannot be brought to their just standards.

Sec. 7. The said sealer be and hereby is authorized and required to go to the houses of such innholders, and to the ware houses, stores and shops of such merchants, traders, and retailers of spirituous liquors, and authorized to go to the houses of such of the other inhabitants as shall neglect as aforesaid, to bring or send in the said beams, weights and measures; and there (at their said houses, stores, shops and ware houses) to try, prove and seal, the same beams, weights and measures. And the sealer shall have a right to demand and receive therefor *four cents* for each and every mile he shall necessarily travel for that purpose, going out and returning home, and double his fees aforesaid, of the owner, to be recovered by action of debt, or on the case, with the costs in any court proper to try the same.

And if any such person or persons refuse or neglect to have his, her or their beams, weights or measures, tried, proved and sealed, he, she or they shall forfeit and pay *ten dollars* for each offence, one half to the use of the poor of the town or district, and the other half to the sealer to be recovered in an action of debt with costs as aforesaid. And if any sealer of weights and measures, shall neglect his duty in any of the cases in this act specified, he shall for neglect, forfeit and pay not less than *five*, nor more than *ten dollars*, one half to the poor of the town or district, and the other half to the informer, to be recovered by an action of debt, or on the case, with costs aforesaid.

NOTE. The above section repealed as to Boston 1817 C. 50.

CHARCOAL. 1796 C. 67, Sec. 5. All baskets used in measuring charcoal, brought into any town or district *for sale*, shall contain two bushels, and be of the

following dimensions, to wit: *nineteen inches in breadth in every part thereof, and seventeen inches and a half deep*, measuring from the top of the basket to the highest part of the bottom, and that the basket be well heaped, and also be sealed by the sealer of the town or district where the person so using the same shall usually inhabit or reside; and every person who shall measure the charcoal offered for sale in any basket of less dimensions, or not sealed as aforesaid, shall forfeit and pay for each offence, *fifty cents*, to the uses mentioned in the fourth section aforesaid; and such basket shall be destroyed.

Sec. 6. The selectmen of any town where *coal* is usually sold shall have power to appoint as occasion may require, some suitable person to seize and secure all baskets improved for measuring coal that shall not be of the dimensions aforesaid, and to prosecute such person or persons as shall be guilty of a breach of this act.

NOTE. 1799 C. 60, Sec. 8. All measures by which meal, fruit or any other thing usually sold by heaped measures shall be sold, shall be conformable, as to capacity and breadth, to the public allowed standards: [see page 141.] and if any person shall sell or expose to sale, any meal, fruit or other thing, usually sold by heaped measure, by any other measure as to capacity and breadth, than is provided by law, or shall sell, or expose to sale, any goods, wares or merchandize, grain or other commodity, by any other beams, weights or measures, than those sealed as aforesaid, he shall forfeit and pay for each offence, not less than *one dollar* nor more than *ten dollars*, according to the circumstances of the case, one half thereof to the use of the poor, and the other half to the use of the sealer, or to him or them who shall sue for the same, to be recovered in an action of debt or on the case, with costs of suit, in any court proper to try the same.

For further duty of sealers see page 141.

MEASURER OF WOOD AND BARK.*

OATH.

YOU solemnly swear, that you will faithfully and diligently discharge the duties of your office as a Measurer of Wood and Bark, for the town of
So help you God.

1796 C. 67, Sec. 2. In each town or district where the inhabitants shall, in town meeting legally assembled, judge and vote the same to be necessary, and wherein fire wood or bark is usually sold, the selectmen† shall annually, or as occasion may require, appoint [see Form 79.] one or more suitable person, and conveniently situated in the town or district, to be measurers of wood and bark, there exposed or brought in for sale, and shall give public notice thereof; which measurer or measurers shall be sworn to the faithful and diligent discharge of their office, and shall receive such fees or allowance for their services as the selectmen shall appoint, to be paid by the driver of the wood or bark, and repaid by the buyer, where brought in by land, and by the wharfinger where brought in by water, and the measurer shall be entitled to his action therefor.

Sec. 1. All cord wood exposed to sale, shall be *four feet long*, including half the carf; and the cord being well laid together, shall measure *eight feet in length, four feet in width, and four feet high.*

Sec. 3. If any fire wood or bark brought by land into any town or district for sale, wherein such measurers are so appointed, shall be offered for sale before the same shall be measured by such measurer and a ticket‡

* For laws relating to Boston, see statute of 1759 & 1772.

† Measurers of Wood may be chosen at the annual meeting, see Towns, head 2.

‡ See Form 156.

signed by him and delivered to the driver, certifying the quantity of wood the load contains, the name of the driver, and town in which he dwells, such wood or bark shall be forfeited, two thirds to the use of the poor of the town, and one third to the measurer or other person who may prosecute.

Sec. 4. If any wharfinger or carter, shall cart or carry away any fire wood from any wharf or landing place, (except for his use and consumption) before the same shall be measured by a measurer appointed as aforesaid, he shall pay *one dollar* for every load carried off, half to the poor of the town and half to the prosecutor. [See the act following.]

1799 C. 26, Sec. 1. All cord wood brought in by water into any town or district for sale, shall be measured by a measurer duly appointed and sworn, as directed in the foregoing act; and in order thereto, the wood so brought in shall be corded and piled by itself upon the wharf or land whereupon the same shall be landed in ranges making up in height what shall be wanting in length, at which time it shall be so measured, and a ticket given to the purchaser who shall be obliged to pay the stated fees or allowance for such service as appointed by the selectmen.

Sec. 2. Every wharfinger, carter or driver, that shall cart or carry any fire wood from any wharf or landing place in any town or district, shall be furnished by the owner or seller of such wood, with a ticket certifying the quantity the load contains and the name of the driver. And if any fire wood shall be carted or carried as aforesaid, without such ticket accompanying the same; or if any driver shall refuse to produce and show such ticket on demand, to any measurer duly sworn as aforesaid, or his consent to have the same measured, or if such ticket shall certify a greater quantity of wood than the load contains in the opinion of the measurer aforesaid, after measuring the same, such wood shall be forfeited and seized, two thirds to the

use of the poor of the town where offered for sale, and the other one third to the measurer or whoever shall prosecute for the same, to be recovered as the other forfeitures in said act are directed to be recovered.—*Provided nevertheless*, That nothing herein contained shall be construed to extend to any person or persons who shall transport or cart, or cause to be transported or carted, from any wharf or landing place to his or her dwelling houses or stores, any cord wood which he or they have purchased on such wharf or landing place, or shall have landed thereon upon his or her account.

TABLE,

Shewing the contents in feet and parts of feet, of any load of wood or bark, *eight feet in length*, having the height and width in feet and inches. If the load is more than *eight feet in length*, allowance must be made accordingly.

F.	I.	3	3	3	4	3	5	3	6	3	7	3	8	3	9	3	10
2		3	1-4	3	1-3	3	1-3	3	1-2	3	1-2	3	2-3	3	3-4	3	3-4
2	1	3	1-3	3	1-2	3	1-2	3	2-3	3	3-4	3	3-4	3	3-4	4	
2	2	3	1-2	3	2-3	3	2-3	3	3-4	3	3-4	4		4		4	1-6
2	3	3	2-3	3	3-4	3	3-4	4		4		4	1-6	4	1-4	4	1-3
2	4	3	3-4	4		4		4		4	1-6	4	1-4	4	1-3	4	1-2
2	5	4		4		4		4	1-6	4	1-4	4	1-3	4	1-2	4	2-3
2	6	4		4	1-6	4	1-4	4	1-3	4	1-2	4	1-2	4	2-3	4	3-4
2	7	4	1-6	4	1-3	4	1-3	4	1-2	4	2-3	4	3-4	4	3-4	5	
2	8	4	1-3	4	1-2	4	1-2	4	2-3	4	3-4	5		5		5	1-6
2	9	4	1-2	4	1-2	4	2-3	4	3-4	5		5		5	1-6	5	1-4
2	10	4	2-3	4	3-4	4	3-4	5		5		5	1-6	5	1-3	5	1-2
2	11	4	3-4	4	3-4	5		5		5	1-4	5	1-3	5	1-2	5	1-2
3		5		5		5		5	1-4	5	1-3	5	1-2	5	2-3	5	3-4
3	1	5		5		5	1-4	5	1-2	5	1-2	5	2-3	5	3-4	6	
3	2	5	1-4	5	1-3	5	1-2	5	2-3	5	3-4	5	3-4	6		6	
3	3	5	1-4	5	1-2	5	1-2	5	2-3	5	3-4	5		6		6	1-4
3	4	5	1-3	5	1-2	5	2-3	5	3-4	6		6		6	1-4	6	1-3
3	5	5	1-2	5	2-3	5	3-4	6		6		6		6	1-3	6	1-2
3	6	5	2-3	5	3-4	6		6		6	1-4	6	1-2	6	1-2	6	2-3
3	7	5	3-4	6		6		6	1-4	6	1-2	6	1-2	6	3-4	6	3-4
3	8	6		6		6	1-4	6	1-2	6	1-2	6	2-3	6	3-4	7	
3	9	6		6	1-4	6	1-3	6	1-2	6	3-4	7		7		7	1-6
3	10	6	1-4	6	1-3	6	1-2	6	2-3	6	3-4	7		7	1-6	7	1-3
3	11	6	1-3	6	1-2	6	2-3	6	3-4	7		7	1-6	7	1-3	7	1-2
4		6	1-2	6	1-2	6	3-4	7		7	1-6	7	1-3	7	1-2	7	2-3
4	1	6	3-4	6	1-2	7		7	1-6	7	1-3	7	1-2	7	3-4	7	3-4
4	2	6	3-4	7		7	1-6	7	1-4	7	1-2	7	2-3	7	3-4	8	
4	3	7		7		7	1-4	7	1-2	7	1-2	7	3-4	8		8	1-6
4	4	7		7	1-4	7	1-3	7	1-2	7	3-4	8		8	1-6	8	1-3
4	5	7	1-6	7	1-3	7	1-2	7	2-3	8		8		8	1-4	8	1-2
4	6	7	1-3	7	2-3	7	2-3	7	3-4	8		8	1-4	8	1-2	8	2-3
4	7	7	1-2	7	2-3	7	3-4	8		8	1-4	8	1-3	8	1-2	8	3-4
4	8	7	1-2	7	3-4	8		8	1-6	8	1-3	8	1-2	8	3-4	9	
4	9	7	3-4	8		8	1-6	8	1-4	8	1-2	8	2-3	9		9	
4	10	7	3-4	8		8	1-4	8	1-2	8	2-3	8	3-4	9		9	1-4
4	11	8		8	1-6	8	1-3	8	1-2	8	3-4	9		9	1-6	9	1-3
5		8	1-6	8	1-3	8	1-2	8	3-4	9		9	1-6	9	1-3	9	1-2

F.	I.	3 11	4	4 1	4 2	4 3	4 4	4 5	4 6
2		4	4	4	4 1-6	4 1-4	4 1-3	4 1-3	4 1-2
2	1	4	4 1-6	4 1-4	4 1-3	4 1-3	4 1-2	4 1-2	4 2-3
2	2	4 1-6	4 1-3	4 1-3	4 1-2	4 2-3	4 2-3	4 3-4	4 3-4
2	3	4 1-3	4 1-2	4 1-2	4 2-3	4 3-4	4 3-4	5	5
2	4	4 1-2	4 2-3	4 2-3	4 3-4	5	5	5 1-6	5 1-4
2	5	4 2-3	4 3-4	5	5	5 1-6	5 1-4	5 1-3	5 1-2
2	6	4 3-4	5	5	5 1-6	5 1-4	5 1-3	5 1-2	5 2-3
2	7	5	5 1-4	5 1-4	5 1-3	5 1-2	5 1-2	5 2-3	5 3-4
2	8	5 1-4	5 1-3	5 1-2	5 1-2	5 2-3	5 3-4	6	6
2	9	5 1-3	5 1-2	5 2-3	5 2-3	5 3-4	6	6	6 1-6
2	10	5 1-2	5 2-3	5 2-3	5 3-4	6	6 1-6	6 1-4	6 1-3
2	11	5 2-3	5 3-4	6	6	6 1-6	6 1-4	6 1-2	6 1-2
3		5 3-4	6	6	6 1-4	6 1-3	6 1-2	6 2-3	6 3-4
3	1	6	6 1-6	6 1-4	6 1-2	6 2-3	6 2-3	6 3-4	7
3	2	6 1-6	6 1-3	6 1-2	6 2-3	6 3-4	6 3-4	7	7 1-6
3	3	6 1-3	6 1-2	6 2-3	6 3-4	6 3-4	7	7 1-6	7 1-3
3	4	6 1-2	6 2-3	6 3-4	7	7	7 1-6	7 1-3	7 1-2
3	5	6 2-3	6 3-4	7	7	7 1-4	7 1-3	7 1-2	7 2-3
3	6	6 3-4	7	7	7 1-4	7 1-2	7 1-2	7 2-3	7 3-4
3	7	7	7 1-6	7 1-4	7 1-2	7 1-2	7 3-4	8	8
3	8	7 1-6	7 1-3	7 1-2	7 1-2	7 3-4	8	8	8 1-4
3	9	7 1-3	7 1-2	7 2-3	7 3-4	8	8 1-6	8 1-4	8 1-2
3	10	7 1-2	7 2-3	7 3-4	8	8 1-6	8 1-3	8 1-2	8 1-2
3	11	7 2-3	7 3-4	8	8 1-6	8 1-3	8 1-2	8 2-3	8 3-4
4		7 3-4	8	8 1-6	8 1-3	8 1-2	8 2-3	8 3-4	9
4	1	8	8 1-6	8 1-3	8 1-2	8 2-3	8 3-4	9	9 1-6
4	2	8 1-6	8 1-3	8 1-2	8 2-3	8 3-4	9	9 1-6	9 1-3
4	3	8 1-3	8 1-2	8 2-3	8 3-4	9	9 1-4	9 1-3	9 1-2
4	4	8 1-2	8 2-3	8 3-4	9	9 1-4	9 1-3	9 1-2	9 3-4
4	5	8 2-3	8 3-4	9	9 1-6	9 1-3	9 1-2	9 3-4	10
4	6	8 3-4	9	9 1-6	9 1-3	9 1-2	9 3-4	10	10 1/6
4	7	9	9 1-6	9 1-3	9 1-2	9 3-4	10	10 1/6	10 1/4
4	8	9 1-6	9 1-3	9 1-2	9 2-3	10	10	10 1/4	10 1/2
4	9	9 1-4	9 1-2	9 2-3	9 3-4	10	10 1/4	10 1/2	10 2/3
4	10	9 1-2	9 2-3	9 3-4	10	10 1/4	10 1/2	10 2/3	10 3/4
4	11	9 1-6	9 3-4	10	10 1/4	10 1/2	10 2/3	10 3/4	11
5		9 3-4	10	10 1-6	10 1/3	10 3/4	10 3/4	11	11 1/4

EXPLANATION.

The foregoing table, is in two parts; the first containing at top, the dimensions of the height or width of a load, from 3 feet 3 inches to 3 feet 10 inches; the other from 3 feet 11 inches to 4 feet 6 inches. The first column is the same in each.

Look in the first or left hand column for the width, and at the top for the height; (or you may find the height in the first column, and the width at the top.) On the line against the one, and in the column under the other, is the content of the load.

Example 1. A load measuring three feet five inches wide and three feet nine inches high, contains 6 1-3 or six feet and one third of a foot. This is found by the first part of the table.

Example 2. A load measuring three feet eleven inches one way, and four feet four inches the other, contains (by the second part of the table,) 8 1-2 or eight feet and a half.

TABLE.

Having the price by the Cord given, shewing the price for one foot.

Price per Cord D. C.	Price per Foot C. M.	Price per Cord. D. C.	Price per Foot. C. M.	Price per Cord D. C.	Price per Foot. C. M.	Price per Cord. D. C.	Price per Foot. D. C. M.
2,00	25,0	3,80	47,5	5,60	70,0	7,40	92,5
2.10	26,2	3,90	48.7	5.70	71.2	7,50	92,7
2,20	27,5	4,00	50,0	5,75	71,9	7,60	95,0
2,25	28,1	4,10	51,2	5,80	72,5	7,70	96,2
2,30	28,7	4,20	52,5	5,90	73,7	7,75	96,9
2.40	30,0	4,25	53,1	6.00	75,0	7.80	97,5
2,50	31,2	4,30	53,7	6,10	76,2	7,90	98,7
2,70	33,7	4,40	55,0	6,20	77,5	8,00	1,00,0
2,75	34,5	4,50	56,2	6,25	78,1	8,10	1,01,4
2,80	35,0	4,60	57,5	6,30	78,7	8,20	1,02,5
2,90	36,2	4,70	58,7	6,40	80,0	8,25	1,03,1
3,00	37,5	4,75	59,4	6,50	81,2	8,30	1,03,7
3,10	38,7	4,80	60,0	6,60	82,5	8,40	1,05,0
3,20	40,0	4,90	61,2	6.70	83,7	8,50	1,06,2
3,25	40.6	5,00	62.5	6,75	84,4	8,60	1,07,5
3,30	41,2	5,10	63,7	6,80	85,0	8,70	1,08,7
3,40	42,5	5,20	65,0	6,90	86,2	8,75	1,09,4
3,50	43,7	5,25	65,6	7,00	87,5	8,80	1,10,0
3,60	45,0	5,30	66,2	7,10	88,7	8,90	1,11,2
3,70	46,2	5,40	67,5	7,20	90,0	9,00	1,12,5
3,75	46,9	5,50	68,7	7,30	91,2	10,00	1,25,0

AUCTIONEERS.

HEADS.

1 Granting Licenses by the Selectmen. 2 Refusal of Selectmen to grant Licenses. 3 Bonds—Selectmen and Auctioneers duty respecting.— 4 Duties. 5 Manner of making return to the State Treasury. 6 Partial sale of Goods, &c. consigned in order to fix a price, for the whole. 7 Property advertized must not be sold at private sale. 8 Goods of a minor, or goods belonging to an auctioneer. 9 Account of sales. 10 Selling without license. 11 Fraud against the act of 1823, Feb. 10. 12 Penalties.

1. *Granting Licenses by the Selectmen.**

1795 C. 8, Sec. 1. The Selectmen or a major part of them at *a meeting had for that purpose*, are hereby impowered *by writing* under their hands, to license any suitable person or persons to make sale of goods or chattels at public vendue, or out cry; for which license, the person or persons receiving the same shall pay to the selectmen granting it for their use, *two dollars:* and the selectmen are hereby directed to record every license, they may so grant, in a book to be by them kept for that purpose.

Sec. 3. Licenses continue in force *one year* only.

2. *Refusal of Selectmen to grant Licenses.*

1815 C. 29. On application *in writing* [see Form 157] of any person to the selectmen of any town in this Commonwealth to be licensed to sell goods or chattels at public vendue, if the selectmen shall unreasonably neglect or refuse, after such application, to license such person or persons, applying as aforesaid, it shall and

*Clark vs. Cushman. Mass. Rep. vol. 5, p. 505. A license to an auctioneer must be granted at a meeting of the Selectmen or of the major part of them had for that purpose, of which meeting all the Selectmen must have notice.

**For form* of license see Form 80.

may be lawful for such applicant or applicants, first giving *ten days'* notice to thes electmen so neglecting, or refusing as aforesaid, to apply to the Court of Sessions for the county where such applicant or applicants reside; which court, or a major part thereof, are hereby authorized and empowered, on hearing the parties, to license said applicant or applicants, if they shall adjudge the same just and reasonable: *And provided*, such applicant give bonds to the selectmen to pay all costs arising by the case being brought before the Court of Sessions.

3. *Bonds*—Selectmen and Auctioneer's duty respecting.—*

1823 C. 87, Section 3. Each auctioneer shall give a bond, in a reasonable penalty with two sufficient sureties to the treasurer of this Commonwealth, and his successor in office conditioned for the payment of the duties mentioned, to the treasurer of this Commonwealth, and also that he shall in all things well and truly conduct and conform himself according to the true intent and meaning of this Act: which bonds shall be taken by the persons who granted the license, and be by them duly transmitted to the treasurer of this Commonwealth, with an endorsement of their approval thereon, and all auctioneers who shall hereafter be appointed, before they sell, or attempt to sell any real or personal property, shall give bonds to be approved and transmitted as aforesaid by the authority granting the license. And if any person, from and after the first day of April next, shall sell any real or personal estate by way of public auction, without having given bonds as aforesaid, he shall forfeit the sum of *five hundred dollars*, for every time he shall so sell, without giving bonds to be recovered by any person who shall sue for the same; one half thereof to the person who shall sue

*Sec. 7, makes it the duty of the state treasurer to prepare and furnish blank forms for Bonds, &c.

therefor and the other half to the use of the Commonwealth.

4. *Duties.*

1823 C. 87, Sec. 1. All real or personal estate sold by order of law, stock in banks, insurance companies, and the public funds pay no duties. Other property exposed for sale, pay as follows every time each article is struck off, viz. All personal estate excepting ships and vessels *one dollar* for every *hundred dollars* of the value, for which the same shall be sold, and all real estate, ships and vessels, at *fifty cents* for every *hundred dollars*, and at and after the same rate for any greater or less sum, to be paid by the person who shall so sell the same. And in all cases where the auctioneer or the owner of such goods so exposed to sale, or any person who shall be employed by them, or either of them, shall be the highest bidder, the said real or personal estate shall be subject to the payment of the same duties, as if they had been sold to any other person.

5. *Manner of making returns to the State Treasury.**

1823 C. 87, Sec. 4. Every Auctioneer, who shall sell any real or personal estate, described in this act, by way of public auction, from and after the first day of April next, shall, on the first days of April, July, October and January, next after any such sales shall be made, or as soon afterwards as may be, not exceeding thirty days, render to the Treasurer of this Commonwealth, a true and particular account, in writing, of the monies or sum for which any and all real or personal estate shall have been sold, carefully distinguishing between sales of real and personal estate, and between sales whereby the whole of any real or personal estate sent, entrusted or consigned to such Auctioneer, has been actually sold at public auction, and other sales,

*Sec. 7 makes it the duty of the State Treasurer to prepare and furnish blank returns.

whereby some part or parcel thereof has been sold at public auction, with the design and effect to ascertain and fix a price for the whole or any other part thereof, at every sale at auction by him made, from and after the said first day of April next, or from the time that the last account was rendered by him, in conformity to this act. And every such account shall have endorsed thereon, the following oath or affirmation, substantially in the form following, to wit:—*I do solemnly and sincerely swear, (or affirm) that the account to which I have subscribed my name, contains a just and true statement of the amount of all the real and personal estate, sold or struck off by me at public sale, or sold by me at private sale, on commission, or whereof any part or parcel has been sold or struck off by me at public sale, with the design and effect to ascertain and fix a price for the whole or any other part thereof, subject to duty, pursuant to the act, entitled "an act imposing a duty on sales at auction," within the time mentioned in said account; and that I have carefully examined all entries and memoranda of sales made by me at auction and at private sale, on commission, within the time mentioned in said account, and that this account exhibits the whole amount thereof, liable to pay a duty, pursuant to the act aforesaid, according to my best knowledge, information and belief.* And the Auctioneer who subscribes the account, shall also subscribe the foregoing oath or affirmation, and make oath or affirmation thereto, before some Justice of the Peace; and the said Justice shall certify the same. And every Auctioneer shall, upon rendering such account, so authenticated, pay the amount of duty upon such account of sales, into the treasury of the Commonwealth. And every Auctioneer shall receive as a compensation, two and a half per cent. on all the duties he shall pay into the treasury.

Sec. 6. Every person who shall subscribe and swear wilfully and *falsely*, to any account transmitted or delivered to the Treasurer of this Commonwealth, accord-

ing to the provisions of this act, shall suffer the pains and penalties which by law are prescribed for wilful and corrupt perjury. [See the following head.]

6. *Partial sales of goods, &c. in order to fix a price for the whole.*

1823 C. 87, Sec. 5. All sales at auction, of any part or parcel of any real or personal estate sent, entrusted or consigned to an Auctioneer, for sale, with the design and effect to ascertain and fix a price for the whole, or for any part thereof, without exposing the whole, or such other part to public sale, shall be deemed and taken to be sales at auction, within the meaning of this act, to the whole amount of the real or personal estate so sent, entrusted or consigned as aforesaid, and whereof the sale is so effected, by the Auctioneer, or by any person or persons acting as a Commission Merchant, Factor, or Agent, or by the owner or owners thereof. And the whole amount of such real or personal estate shall be returned by the Auctioneer, in his accounts to the Treasurer of this Commonwealth, in the same manner, as if the same had been sold at public auction.

7. *Property advertised must not be sold at private sale.*

1823 C. 87, Sec. 5. No person whosoever shall, on the day of any sale at public auction, dispose of, at private sale, any of the property which has been advertised or exposed to sale at public auction, and which, if sold at public auction, would be liable to the duty imposed by this act, under the penalty of one thousand dollars, to be recovered by any person who shall sue for the same; one moiety thereof, when recovered, to such person's use, and the other moiety to the use of the Commonwealth.

8. *Goods of a minor, or goods belonging to an Auctioneer.*

1795 C. 8, Sec. 2. If any Auctioneer shall receive

any goods for sale at public vendue or outcry of any servant or minor, knowing such person to be a servant or minor, or shall sell any of his own goods before sunrise or after sunset, at public vendue or outcry, he shall forfeit and pay a sum not less than *fifty dollars* nor more than *one hundred and seventy dollars* for each offence.

9. *Account of sales.*

1795 C. 8, Sec. 2. Every person licensed shall keep a fair and particular account of all goods and chattels sold by him as aforesaid, of whom the same were received, and of the persons to whom the same shall have been sold.

10. *Selling without License.*

1823 C. 87, Sec. 2. If any person not licensed and qualified, according to the laws of this Commonwealth and the provisions of this act, shall sell or attempt to sell, any real or personal estate whatsoever, by way of public auction or vendue within this Commonwealth, he shall be considered guilty of a misdemeanor, and shall, on conviction, be fined in a sum not exceeding *five hundred dollars*, for each and every offence, at the discretion of the court before whom such conviction shall take place.

1814 C. 46, Sec. 2. The tenants or occupants of any house or store having the actual possession and control of the same, who shall knowingly permit or allow any person or persons not being licensed as in the said act prescribed, to sell any goods or chattels at public vendue or outcry in his said house or store or in any apartment or yard appurtenant to the same, shall forfeit and pay a sum not exceeding *six hundred dollars* nor less than *one hundred dollars.*

11. *Fraud against the act of* 1823, *Feb.* 10.

Sec. 6. If any person shall be guilty of any fraud or deceit in the execution of this act, or in eluding or defeating the operation thereof, every such person, on

conviction thereof shall forfeit the sum of *one thousand dollars* as a penalty for every such offence, to be recovered by any person who will sue for the same, one half thereof, when recovered, to be for the use of such person and the other half thereof for the use of the Commonwealth.

1795 C. 8, and 1814 C. 46. The penalties in *these two statutes* may be recovered by action of debt or indictment in any court proper to try the same, and appropriate to the use of him who shall first sue for the same.—Nothing in the Statute of 1795 C. 8, shall extend to sales made by sheriffs, deputy sheriffs, coroners, constables, collectors of taxes, executors or administrators, or any other person who already is, or hereafter may be authorized or required, by law, to sell goods, chattels or lands at vendue or outcry.

ENGINEMEN.*

1785 C. 42, Sec. 1, and 1805 C. 82, Sec. 1. The Selectmen of such towns as are or may be provided with a fire engine, or engines, be, and they are hereby empowered if they judge it expedient, to nominate and appoint a number of suitable persons (not exceeding *twenty one to one engine*) for enginemen; who shall continue in said office, during the pleasure of such selectmen; which enginemen shall be and they are hereby authorized and empowered to meet together some time in the month of May *annually;* at which meeting they shall have authority to choose a *master* or *director* and *clerk* of the said engine, and establish such rules and regulations respecting their duty as enginemen, as shall be approved by the selectmen, and to annex penalties to the same which may be recovered by

* *Appointment* of enginemen, see Form 81.

the clerk of said enginemen, before any Justice of the Peace in the same county: *Provided*, No penalty shall exceed *forty shillings*, and that such rules and regulations shall not be repugnant to the laws of this Commonwealth.

1805 C. 82, Sec. 2. Selectmen are authorized, with the consent of the commanding officers of companies to appoint *four* in addition to the *twenty one*, provided the companies are not reduced below the number required by law.

1785 C. 42, Sec. 2. Enginemen shall be holden to meet *once a month* and oftener if necessary, for the purpose of examining the state of the engine to which they belong, and the appendages belonging to the same, and seeing the said engine is in good repair and ready to proceed on any emergency to the relief of *any part of the community* that may be invaded by the calamity of fire, they shall be held and obliged to go forward, either by night or by day under the *direction of the firewards* in the same town, and to use their best endeavors to extinguish any fire that may happen in the *same, town* or *the vicinity thereof*, and shall come to their knowledge, without delay.

Sec. 3. Selectmen may appoint enginemen to engines owned by *private persons*, on application of the proprietors, when they incline that the same may be employed for the benefit of the town; which enginemen shall have the same privileges and be subject to the same regulations as though said engine were the property of the town.

Sec. 4. Enginemen are exempted from common and ordinary *military duty*,* and from serving as

* EXPLANATION.—1809 C. 108, Sec. 1. Such enginemen as shall annually produce to the commanding officer of the company certificates from the selectmen of their respective towns, that they have been legally appointed and are bound to perform the duties of enginemen.

NOTE.—The better way would be for the engine-company to *authorize their clerk to* make application for the whole members *in one certificate*—*Ed.* [For the certificate, see Form 158.

jurors,† or in the office of a *constable* during the time they may be employed in the service aforesaid.

1785 C. 42, Sec. 1 and 5, and 1805 C. 82, Sec. 2. All enginemen continue in office during the pleasure of the selectmen, and if any person being appointed in manner herein before directed shall, in the opinion of the said selectmen be negligent and remiss in the duties required of him, as an engineman, it shall be the duty of the selectmen in the same town, upon sufficient evidence thereof, to discharge him from said company, and proceed to appoint another engineman in his room in the manner herein before directed.

1805 C. 82, Sec. 3. The selectmen may, in their discretion, select from the enginemen aforesaid, any number, whose duty it shall be, under the direction of the firewards, to attend fires in their towns, with axes, fire hooks, fire sails and ladders, and such further duty as the selectmen prescribe.

NOTE. 1801 C. 29. If any person shall wantonly or maliciously spoil, break, injure, damage, or render useless, any engine, or any of the apparatus thereto belonging, prepared by any town, society, person or persons, and shall be convicted thereof before the Supreme Judicial Court, he shall pay a fine not exceeding *five hundred dollars*, or be imprisoned not exceeding *two years*, and be further ordered to recognize with sureties for his good behavior.

† 1808 C. 25. All persons legally attached to any engine are excused from serving as jurors in the courts of this state; *Provided* the town to which they belong, shall at a legal meeting declare the expediency of excusing them.

INSPECTORS AND MARKERS OF LIGHTERS.*

OATH.

YOU solemnly swear, that you will faithfully perform the duties of an Inspector and Marker of Lighters, for the town of the ensuing year, as is prescribed in the laws of this Commonwealth regulating that office. So help you God.

1800 C. 75, Sec. 2. It shall be the duty of the selectmen, in any town where boats and lighters are owned, which may be employed in transporting stones, gravel, or sand, as contemplated in this act, to appoint* *annually*, in the month of April or May, some suitable person, to ascertain the capacities of all such boats and lighters, and mark the same as is prescribed in this act; who shall be under oath, faithfully to perform the duty as herein prescribed.

1815 C. 18, Sec. 3. The selectmen of towns in which boats or lighters, used for the aforesaid purposes, are owned, be, and they hereby are empowered, and it shall be their duty to regulate the amount of fees which may be demanded by the inspectors of boats and lighters, of the owners thereof, for the performance of the duties imposed upon him by this act, and that to which this is an addition.

1800 C. 75, Sec. 1. Every boat or lighter employed in transporting stones, gravel, or sand, within this Commonwealth, shall be marked at *light water mark*, and at least at five other places, with the figures, four, twelve, sixteen, twenty four, and thirty, legibly made, on the stem and stern post thereof; which figures shall express the weight such boat or lighter is capable of carrying, when the lower part of the respective numbers shall touch the water, in which the said boat or lighter shall float. And every person

* *Appointment*, see Form 82.

who shall use or employ any boat or lighter, for the purpose of transporting stones, gravel or sand, as aforesaid, which shall not be marked as in this act is provided, shall forfeit and pay the sum of fifty dollars, to be recovered by an action of the case, in any court proper to try the same, by any person who shall sue therefor. And any person who shall put, or cause to be put, on any boat or lighter as aforesaid, any false marks as aforesaid, shall be subject to the like penalty, to be recovered in like manner.

1815 C. 18, Sec. 1. The marks directed to be made on boats and lighters, expressive of the weight such boats are capable of carrying, shall hereafter be inspected *once every year*, and whenever such mark shall be found to be illegible, the same shall be renewed.

Sec. 2. Whenever the inspector shall be of opinion, that the burden or capacity of any such boat or lighter shall have been diminished or increased by any repairs made on the same, or otherwise, it shall be his duty forthwith to ascertain anew the capacities of such boats or lighters, and to mark the same accordingly.—Additional act 1823, Feb. 11.

WEIGHERS OF BEEF.*

OATH.

YOU solemnly swear, that you will faithfully discharge the duties of your office as a Weigher of Beef, for the town of So help you God.

1815 C. 99, Sec. 1. From and after the first day of April next, it shall be the duty of the selectmen of every town within this Commonwealth, where beef cattle are sold for the purpose of the market or barrelling, *to appoint* one or more person or persons, not being

*Appointment, see Form 83.

dealers in cattle, and conveniently situated in such town to be weigher or weighers of beef, who shall be sworn to the faithful discharge of the duties of their office, and shall receive such fees as are herein after described.

Sec. 2. All beef sold as aforesaid, shall be weighed by the said sworn weighers, and certificates of the weight of all the beef, hide and tallow of each head of cattle, in the form following shall be signed by the said weighers, and delivered to the seller or sellers thereof.

FORM OF CERTIFICATE.

This certifies that I have duly weighed the cattle, Bought by of from of this day of 182

Beef, ...					
Hide, ...					
Tallow, ...					
Total					

Sworn Weigher.

Sec. 3. The fees for weighing shall be as follows: for weighing any quantity of cattle, not exceeding *five head, twenty cents per head;* not exceding *ten head, fifteen cents per head;* not exceeding *twenty head, ten cents per head;* all over *twenty head, five cents per head,* beyond the *first twenty head;* which fees shall be paid by the seller or sellers thereof, which shall contain the several weights of all the cattle offered for weight, by any person unless otherwise regulated by the seller or sellers thereof.

Sec. 4. Any butcher or butchers, purchaser or purchasers of beef cattle, intended for market or barrelling, who shall purchase any such beef cattle, contrary to the true intent and meaning of this act, shall forfeit and pay the sum of *thirty dollars* for each and every such offence, to be recovered with cost of suit, by action or plaint, before any court proper to try the same, one half to the use of the Commonwealth, and

the other half to the use of such person or persons as shall prosecute for the same: *Provided*, that nothing in this act shall prevent any person or persons from buying or selling live cattle, commonly called cattle on the foot. *And provided*, that no person shall be obliged to weigh any beef cattle, when the weight or mode of weighing shall be agreed on by the buyer and seller.

NOTE. 1799 C. 30. No beef or pork shall be weighed by the owner or keeper of any slaughter houses, stores or warehouses, or by any persons under their direction or control in said houses, in any greater quantity than *fifty pounds*, except in scales and with weights duly sealed according to law; and every owner or keeper of any slaughter house, store or ware house, or any person or persons by their direction, or under their control in said houses, who shall weigh any beef or pork in any greater quantity than *fifty pounds*, by steel yards, or in any other way than by scales and weights, duly sealed as aforesaid, shall for every such offence, forfeit and pay the sum of *ten dollars*, to be recovered by action of the case, before any court competent to try the same, one half to the use of the person who shall sue as aforesaid, and the other half to the use of the poor of the town in which such offence shall be committed.

WEIGHERS OF ONIONS.*

OATH.

YOU solemnly swear, that you will faithfully perform your duty as a Weigher of Onions within and for the town of So help you God.

1785 C. 25, Sec. 13. No onions *in bunches*, shall be shipped, or exported out of this Commonwealth, unless they weigh as follows, viz: rareripes, (so called) *two* and a *half pounds*, and onions from the seed, *three* and a *half pounds* per bunch.

Sec. 14. The selectmen of each town where such onions shall be shipped are hereby authorized and directed to appoint some suitable person or persons to weigh the same, and give certificates of the weight; which person or persons so appointed, shall be sworn to the faithful performance of his or their duty, and shall receive as fees, *eight pence*, for every hundred bunches so weighed and certified, for any quantity not exceeding five hundred bunches, and *four pence* for a greater quantity—said fees to be paid by the purchaser.

Sec. 15. If any person shall presume to expose for sale within this Commonwealth, any onions in bunches, without first having them weighed as aforesaid, and having obtained a certificate of the same, according to the true intent and meaning of this act, he shall forfeit the same, one moiety thereof to and for the use of the town where they may be exposed to sale, the other moiety to him or them who shall inform of the same; and the selectmen of such town, or the major part of them are hereby authorized and empowered to seize the same and sell them at public auction, and to account with the overseers of the poor of such towns, for the net proceeds of one moiety thereof and the other to said informant.

* Appointment, see Form 84.

CULLERS OF DRY FISH.

OATH.

YOU solemnly swear, that you will faithfully and impartially discharge and perform all the duties incumbent on you as a Culler of Dry Fish, for the town of the ensuing year, according to your best skill and judgment. So help you God.

1784 C. 30, Sec. 14. There shall be annually chosen, in every *sea port town* within this Commonwealth, where fish is made and cured, or sold, at the annual March or April meeting, a suitable number of skilful and disinterested persons, inhabitants of such town, to be cullers of fish; and any persons who shall cull fish without being chosen and sworn, shall forfeit *five pounds* for every quintal of fish by him culled, and such cullers, in culling fish shall have regard to the contract between the buyer and the seller, with respect to the season of the year wherein such fish is cured.

Sec. 15. Every person chosen into the office of a culler of fish, shall, before he enters on the duties of his office, be sworn as other town officers are, to the faithful discharge of his trust. When it shall so happen that the sworn cullers cannot be obtained, then it shall and may be lawful for the buyer and seller to agree upon some meet person to be a culler in such case: *Provided*, he be first sworn faithfully to discharge the trust.

Every master or commander of any ship or other vessel, who shall take on board any fish, in order to transport the same beyond sea, without having the same first surveyed or culled by a person duly appointed and under oath, shall pay a fine of *six shillings* for each quintal so received or taken on board.

Sec. 18. The above *penalties* go half to the Com-

monwealth, and half to him who shall inform and sue for the same

Sec. 15. FEES. *One penny half penny*, for every quintal surveyed or culled, to be paid by the purchaser.

HEALTH COMMITTEE.

*1797 C. 16, Sec. 11. Each town or district within this Commonwealth may at their meeting, held in March or April, annually, or at *any other meeting legally warned for the purpose*, when they shall judge it necessary, choose and appoint a health committee, to consist of not less than five nor more than nine suitable persons, or one person to be a health officer, whose duty it shall be to remove all filth of any kind whatever which shall be found in any of the streets, lanes, wharves, docks, or in any other place whatever within the limits of the town to which such committee or health officer belongs, whenever such filth shall, in their judgment, endanger the lives or the health of the inhabitants thereof: And all expenses whereof to be paid by the person or persons who placed it there, if known; or if not, by the town by which said committee or health officer is appointed. And whenever any filth as aforesaid shall be found on private property, said committee or health officer shall notify and order the owner or occupier thereof, after *twenty four hours'* notice, to remove the same, at their own expense, and in case said owner or occupier shall neglect to remove such filth from his or her property, after the expiration of the time aforesaid, he or they so offending shall

* Repealed as to Boston, 1799 C. 10, Sec. 18.—Salem, 1799 C. 14.—Marblehead, 1801 C. 43.—Plymouth, 1809 C. 63, and others substituted. See also for Charlestown, 1818 C. 12; also, for Lynn 1821 C. 21.

* See *page 66*. *Their* duty respecting the quarantine law, see *page 75*.

pay a fine of *one hundred dollars*, to be sued for and recovered, with costs of suit, by said committee or health officer, before any court proper to try the same, for the use of the poor of the town in which such offence is committed: And said owner or occupier as aforesaid shall be liable and obliged to repay to said town all cost and charges which the said committee or health officer may have incurred in removing the filth from his or her property; and in case of refusal to pay the same, he or they may be sued in the same way as is provided in this act for the recovery of fines as aforesaid.

FIRE AND FIREWARDS.

1796 C. 88, Sec. 1. Each town in this Commonwealth, in their March or April meeting annually wherein the qualified voters shall think it expedient to choose firewards, shall hereafter have power to elect such number of suitable persons to be firewards therein as shall be deemed necessary; and each person so elected shall be notified thereof within three days, and shall, within three days after being so notified, enter his acceptance or refusal of the said office with the town clerk; and if any person being so elected, and notified shall neglect to enter his acceptance or refusal as aforesaid, he shall forfeit and pay *ten dollars*, unless excused by the town; and the town shall have power to elect another in his place, in case of such neglect or refusal; and when any fire shall break out in any town, wherein firewards, shall be appointed, they shall immediately attend thereat and carry with them a suitable *staff* or *badge* of their office.

Sec. 2. When any fire shall break out in any town, the firewards thereof who shall be present at the place in immediate danger, or any three of them, and where no firewards shall be appointed, a major part of the

selectmen present; or in their absence, two or three of the civil officers present, or in their absence two or three of the chief military officers of said town present, shall have power to direct the pulling down or demolishing any such house or building as they shall judge necessary to be pulled down or demolished in order to prevent the further spreading of the fire; and during the continuance of any fire the said firewards or officers, as the case may be, shall have power to require assistance for extinguishing the same and for removing any furniture, goods or merchandize from any building on fire, or in danger thereof, and to appoint guards to secure the same; and also assistance for pulling down or demolishing any house or building as the case may require; and further to suppress all tumults and disorders. And the said firewards, selectmen or officers, as the case may be, shall have authority to direct and appoint the stations and operations of the enginemen with their engines, and of all other persons for the purpose of extinguishing the fire and preventing its increase; and if any person shall refuse or neglect any order given by said firewards or officers in the premises, the person so offending shall forfeit and pay for each offence *ten dollars.*

Sec. 3. If the pulling down or demolishing of any house or building, by the directions aforesaid, shall be the means of stopping the said fire; or if the fire stop before it come to the same, then every owner of such house or building shall receive a reasonable compensation and be paid for the same by the inhabitants of the town in which the fire shall happen; and it shall be the duty of the qualified voters in such town, to grant such sum or sums of money as shall be thought necessary and proper by the selectmen of the same town, and of the assessors to assess the same: *Provided always,* That when it shall be adjudged fit that the house or building where the fire shall first begin and break out should be pulled down or demolished to prevent the further spreading and increase of the same

fire, then the owner of such house or building shall receive no compensation for the same. *Provided also*, That if any person shall think him or herself aggrieved by the doings of the town, selectmen or assessors, thereof in estimating, voting or assessing such sum or sums, he or she shall have a right to appeal, and complain to the next Court of General Sessions of the Peace to be holden in the county, and the said court thereon shall have power, on a consideration of all the circumstances of the case, to confirm said doings of said town, selectmen or assessors, or to alter the same in such manner, as the said court shall judge proper; and in either case to award legal costs, as the justice of the case may require; and the collectors, to whom the said assessments shall be committed to collect shall have the same powers, and be subject to the same duties, as in the collection of other town taxes, as well in collecting an assessment so confirmed or altered, as in cases wherein there shall be no appeal.

Sec. 4. That if any person shall in such case of fire, plunder, purloin, embezzle, convey away or conceal any furniture, goods or chattels, rights or credits, merchandize or effects of the inhabitants whose houses or buildings shall be on fire or endangered thereby, and said inhabitants shall be put upon removing the same, and shall not restore or give notice thereof to the owners (if known) or to one of the firewards of the town, or bring them into such public place as shall be assigned by the selectmen of the town, within two days after public notice shall be posted in some public place in the town by the selectmen thereof for that purpose; the person or persons so offending, and being thereof convicted shall be deemed guilty of *larceny*, and punished accordingly.

Sec. 6. The several fines or forfeitures aforesaid shall be two third parts thereof to the use of the poor of the town where the offence shall be committed, and the other third thereof to him or them who shall inform and sue for the same; and shall be recover-

able with costs of suit, in any court proper to try the same.

Sec. 7. If any person or persons shall wittingly and willingly set fire to any woods or lands lying in common, or to wood land or other land held in severalty and not his own, within this Commonwealth, without leave first had and obtained from the owners of the land or those who have a right to give the same leave, excepting in case in which it may become necessary to make back fires to stop the progress or subdue any fire that may be spreading, the person so offending shall forfeit and pay for each offence *ten dollars*, one moiety thereof to the use of the Commonwealth, and the other moiety thereof to the use of him or them that shall inform and sue for the same; and shall be liable, in a special action on the case, to pay damages to all persons injured by such fire, including the injury which may be done by any necessary back fire made for the purpose aforesaid. And in case any person under age shall offend against this act, such penalty shall be recovered of the parent or master respectively, of such person under age, unless it shall appear such person under age was employed or directed by some person other than the parent or master; in which case the person so employing or directing shall be liable therefor; and the fines in this section mentioned may be recovered in an action of debt, with costs of suit.

INSPECTORS OF LIME.

OATH.

YOU solemnly swear that you will faithfully perform the trust reposed in you as an Inspector of Lime for the town of So help you God.

1809 C. 62, Sec. 5. There may be chosen in each town in this Commonwealth, where lime is imported

by water at any annual meeting, one or more inspectors of lime, who may at the expense of the purchasers, inspect all lime imported into or sold in their respective towns or harbors, and such inspectors shall have a right to demand and receive of every such purchaser *four cents* for every cask of lime so inspected.

Sec. 6. Each town within this Commonwealth, in which lime is manufactured, at their meeting in March or April, may choose one or more inspectors, whose duty it shall be to inspect all lime manufactured within said town, at the time it is filled at the kiln, and brand each cask in which the same is put, with the word, "Inspected," and the first letter of his christian name, and his surname at length, with the name of the said town; and he shall receive from the manufacturer or owner of the said lime *five cents* for each cask so inspected and branded.

Sec. 9. The inspector and deputy inspectors, appointed and chosen by virtue of this act, before they enter upon the duties of their office shall be sworn to the faithful performance of the trust reposed in them respectively.

Sec. 1. No stone lime manufactured within this Commonwealth, shall be sold or exposed to sale or shipped on board any vessel, in casks, but such only as shall be well burnt and pure, and contained in good and sufficient casks to contain fifty gallons or one hundred gallons each, made of well seasoned heads and staves, with ten good and sufficient hoops on each cask, well driven and sufficiently secured with nails or pins.

Sec. 7. If any person shall presume to sell, or expose to sale, or ship, or receive on board any vessel, in casks, any lime, other than such as shall be contained in casks made as aforesaid, and having the aforesaid marks or brand, as required by this act, respectively, the offender or offenders shall incur the penalty of *one dollar* and *fifty cents* for every cask so sold or offered for sale, or shipped or received on board any vessel, to be

sued for and recovered before any Justice of the Peace, or Court of Common Pleas, as the case may require by action of debt; and all such lime and cask or casks shall be forfeited to the uses herein after provided. And it shall be lawful for any Justice of the Peace, upon information given of any such cask or casks of lime, sold or exposed to sale, or put or received on board any vessel, to issue his warrant, directed to the sheriff or his deputy or constable, requiring them, respectively to make seizure of any such lime sold or exposed to sale, or shipped, or received on board any vessel, and not made and marked as aforesaid, and to secure the same in order for trial, and such officers are respectively authorized and required to execute the same.

Sec. 8. Persons who shift the contents of casks after being branded forfeit $1 50 for each cask so shifted.

Sec. 10. The above penalties shall be half to the town and half to the informer.

Sec. 11. Nothing in this act shall be construed to restrain any manufacturer of lime, or other person, from retailing lime by the bushel, or other quantities not in casks.

SURVEYORS OF LUMBER.*

OATH.

YOU solemnly swear, that you will faithfully perform the trust reposed in you as a Surveyor of Lumber within and for the town of So help you God.

HEADS.

1. Choice. 2. Boards, plank, timber and slitwork. 3. Shingles. 4. Clapboards.

* The laws relating to lumber in force are 1783 C. 15 and 54, also 1821 C. 23. It was not convenient to give the section entire in this work.

* *Staves and hoops*, see cullers of staves and hoops.

1. *Choice.*

There shall be one or more suitable person elected in every town or district, at their annual meeting to be surveyors and measurers of boards, plank,* timber and slitwork, and surveyers of shingles, clapboards, staves and hoops, who shall be sworn to the faithful performance of their trust; in case of refusal to serve or neglect to take the oath they severally forfeit *twenty shillings* to the poor of the town, and towns may proceed to another choice.

2. *Boards, plank,* timber and slitwork.*

Boards to be shipped to a foreign market or to any port or place not within this Commonwealth must be square edged and not less than ten feet in length and seven eighths of an inch thick, after being fully seasoned, or in the same proportion, being partly seasoned, and surveyors are to make proper allowance for drying and shrinking of pine boards, and all boards, plank, timber or slitwork, offered for sale, shall previous thereto, be surveyed and also measured by one of the sworn surveyors, where he shall have any doubt of the measure, having due consideration for drying and shrinking, who shall mark anew all such to the just contents thereof, making reasonable allowance for rots, knots and splits.

Fees—*Six pence* per thousand feet for viewing only. *Six pence* per thousand feet more for measuring and marking; and so in proportion for a lesser quantity.

Note.—Boards as above are considered by law merchantable.

* 1821 C. 23, Sec. 1. All spruce and pine timber that is hewed, and of six inches square and upwards, shall be surveyed and sold at and after the rate of forty cubic feet per ton, and all sawed timber, six inches square and upwards, shall be surveyed in the same manner as is now provided by law for measuring boards and scantling.

Sec. 2. Every person violating the provisions of this act (unless by special agreement of the parties another method is adopted) on conviction thereof, shall pay for every offence not less than *two nor more than ten dollars.*

3. *Shingles.**

Shingles offered for sale must be split crossways the grain, and be eighteen inches long, unless those made for home use; pine shingles shall be free from sap, and all shingles shall be free from shakes and worm holes, and shall be half an inch thick at the butt end, when green, and full three eighths of an inch when thoroughly seasoned, if for exportation to a foreign market, or to a port or place not within the Commonwealth; and not less than one third of an inch thick at the butt when fully seasoned if for home use, and four inches wide on an average, and not less than three inches wide, and shall hold their width three fourths the way to the thin end, and be well shaved; and each bundle shall contain two hundred and fifty shingles, or if bound in square bundles, shall contain twenty five courses, and measure twenty two inches and an half at the lay; and in case there shall be more than five shingles in any one bundle that are under the above length, breadth or thickness, or five short in the tale of any one bundle of two hundred and fifty, the bundle which is so deficient, or in which such shingles are contained, shall be forfeited, and the shingles in each bundle, which are not merchantable, shall be burnt, and the residue sold, and the money arising from the sale shall be paid into the hands of the town treasurer, for the benefit of the poor of such town where the shingles are condemned, first deducting therefrom the charge of culling and surveying.

Before any shingles are sent from the town where they are made, or at the place of first sale, before their delivery, they shall be viewed, surveyed and measured by a sworn surveyor, and the town brand set upon the hoop of the bundle; and all shingles offered for sale without being surveyed and marked as aforesaid, shall be forfeited and disposed of as before provided.

*Wheeler vs. Russel. Mass. Rep. vol. 17, p. 253. No action on a promissory note the consideration whereof was the sale of shingles, not of the size prescribed by the statue, would lie.

NOTE.—Such shingles as above are considered in law merchantable.

FEES.—*Six pence* per thousand for surveying and telling, to be paid by the buyer.

4. *Clapboards.*

All pine clapboards, that shall be exposed to sale, in any town, shall be made of good sound timber, clear of sap; and all clapboards shall be free from shakes and worm holes, and of the following dimensions, viz. full five eighths of an inch on the back, or thickest part, five inches wide, and four feet six inches long, and they shall be straight and well shaved.

FEES.—*Six pence* per thousand for surveying and telling, to be paid by the buyer.

NOTE.—If any surveyor shall connive at or allow the breach of the statute for the measurement of boards, clapboards, shingles, staves or hoops, or be guilty of any fraud or deceit in surveying he shall forfeit *ten pounds* for each offence, and in case of his refusal to attend the service, when requested, he shall forfeit *twenty shillings*, half to the poor of the town and half to the surveyor, or other person who shall sue for the same.

If any person ship off any boards, clapboards, shingles, staves or hoops, unless the same shall first have been surveyed and marked, by a sworn surveyor, he shall forfeit *twelve shillings* per thousand, to be appropriated as above.

If any seller of boards, clapboards, shingles, staves or hoops, shall deliver, or any purchaser receive, any before they are marked, he shall forfeit *twelve shillings* per thousand, to be appropriated as above.

To all boards, clapboards, shingles, staves and hoops shipped off, a certificate shall be given by the surveyor to the master or commander of the vessel, of the quantity by him surveyed. [Duty of master and naval officer, see the statute of 1783 C. 15 and 54.]

Forfeitures for breaches of the above, may be recovered by any person that shall sue for the same, by

action, bill, plaint or information, in any court proper to try the same, or before any Justice of the Peace, if the forfeiture does not exceed *forty shillings.*

CULLERS OF STAVES AND HOOPS.*

OATH.

YOU solemnly swear, that you will faithfully discharge the duties of your office as a Viewer and Culler of Staves and Hoops for the town of the ensuing year. So help you God.

HEADS.

1 Choice. 2 Staves. 3 Hoops. 4 Fees.

1. *Choice.*

1783 C. 15, Sec. 4. In each maritime town from whence staves or hoops are usually exported, beyond sea, there shall be two or more suitable persons chosen by such towns, forever at their annual meetings, to be viewers and cullers of staves and hoops, who shall be under oath, faithfully to discharge their office.

2. *Staves.*

WHITE OAK. 1783 C. 15, Sec. 3. All white oak *butt staves* shall be at least five feet in length, five inches wide, one inch and a quarter thick on the heart, or thinest edge, and every part thereof. All white oak *pipe staves* shall be at least four feet eight inches in length, four inches broad in the narrowest part, and not less than three quarters of an inch thick on the heart, or thinest edge. All white oak *hogshead staves* shall be at least forty two inches long, and not less than half an inch thick on the heart, or thinest edge. All white oak *barrel staves*, for a *foreign market*, shall be thirty

* Part of the duty of Culler of Staves and Hoops will be found under Surveyors of Lumber.

two inches long; and for *home use*, shall be thirty inches long; and shall be half an inch thick, on the heart or thinest edge. And all white oak hogshead and barrel staves shall be at least, one with another, four inches in breadth, in the narrowest part; and those of the breadth last mentioned shall be clear of sap.

Red Oak. All red oak, hogshead and barrel staves shall be of the same length, width and thickness with the white oak hogshead and barrel staves above mentioned: And all staves shall be well and proportionably split.

No staves shall be offered for sale in any town unless they are of the dimensions above named.

3. *Hoops.*

1783 C. 15, Sec. 3. All *hogshead* hoops that shall be exposed to sale or exported, shall be from ten to thirteen feet in length, and shall be made of white oak or walnut, and of good and sufficient substance, well shaved; those made of oak shall not be less than one inch broad at the least end, and those made of walnut shall be not less than three quarters of an inch broad at the least end; each bundle shall consist of thirty hoops; and all hoops, of ten, twelve and thirteen feet respectively, shall be made up in distinct bundles by themselves; and if any hoops are packed of less dimension than those prescribed by law, or if any bundle shall contain less than thirty hoops, such bundle shall be forfeited and sold for the benefit of the poor of the town where it is offered for sale.

6. *Fees.*

Sec. 4. One shilling and eight pence per thousand for *barrel staves*—two shillings per thousand for *hogshead staves*—two shillings and four pence per thousand for *pipe staves*—two shillings and eight pence per thousand for *butt staves*, and three shellings per thousand for *hoops*.

The *merchantable* to be paid for by the *buyer*, and the refuse by the *seller*.—Fees are the same for refuse as for merchantable.

NOTE. Sec. 5. All staves that shall be exported shall be first culled, and all hoops viewed and surveyed; and a *certificate* shall be given by the culler or surveyor, to the master of the vessel, of the quantity by him culled and surveyed; and the bands with which the bundles of hoops are bound, shall be sealed with the brand of the town where they are exported.

TYTHINGMEN.

OATH.

1791 C. 58, Sec. 10] *YOU, being chosen Tythingman for the town of for the year ensuing, and until another shall be chosen in your room, do solemnly swear, that you will diligently attend to, and faithfully execute the duties of the said office, without partiality, and according to your best discretion and judgment. So help yau God.*

1786 C. 68, Sec. 19. The selectmen of each town or district, respectively, shall take due care that tythingmen be annually chosen, at the general meeting for the choice of town officers, as is by law provided; and upon any vacancy, to fill up the number at any other town meeting; which tythingmen shall have power, and whose duty it shall be, carefully to inspect all licensed houses, and to inform of all disorders or misdemeanors which they shall discover, or know to be committed in them, or any of them, to a Justice of the Peace, or to the General Sessions, within the same county, as also all such as shall sell spirituous liquors, without license: And in like manner to inform of all idle and disorderly persons, profane swearers or cursers, sabbath breakers and the like offenders, to the intent that they may be punished: Every of which tything-

man shall be sworn, as other officers are, to the faithful discharge of his office.

1791 C. 58, Sec. 11. The oath of any tythingman shall be deemed full and sufficient, in any trial for any offence against this act, unless, in the judgment of the court or Justice, the same shall be invalidated by other evidence that may be produced.

Sec. 10. Tythingmen shall be held and obliged to inquire into and inform of all offences against the statute of 1791 C. 58; and every tythingman is authorised and empowered to enter into any of the rooms and other parts of an *inn* or public house of entertainment, on the Lord's Day, and the evening preceding and succeeding; and if such entrance shall be refused, the landlord or licensed person shall forfeit the sum of *forty shillings* for each and every offence. And they are further authorized and empowered, within their respective towns, to examine all persons whom they shall have good cause, from the circumstances thereof, to suspect of unnecessarily travelling on the Lord's Day, and to demand of all such persons the cause thereof, together with their names and places of abode; and if any person shall refuse to give answer, or shall give a false answer to such demand, he shall pay a fine of not exceeding *five pounds* nor less than *twenty shillings;* and if the reason given for such travelling shall not be satisfactory to such tythingman, he shall enter a complaint* against the person travelling, before any Justice of the Peace in the county where the offence is committed, if such person lives in the county, otherwise shall give information thereof to some grand juryman, to be laid before the grand jury.

1798 C. 20, Sec. 4. They, and the selectmen,

* Pearce vs. Atwood. Mass. Rep. vol. 13, p. 324. The statute of 1791 C 58, does not authorize a Justice of the Peace to receive a complaint and issue a warrant on the Lord's Day, for a violation of that law merely by travelling. An arrest made on the Lord's Day pursuant to a warrant so issued, is illegal and the officer *making it* is a trespasser.

constables, grand jurors, &c. are to complain of any breeches of the act "more effectually to prevent the pernicious practice of gaming." [See the statute of 1798 C. 20.]

NOTE. All regulations, respecting the due observation of the Lord's day, shall be construed to extend to the time included between the midnight preceding, and the sun setting of the same day.

No person or persons whatever shall keep open his her or their shop, ware house, or work house, nor shall, upon land or water, do any manner of labor, business or work (works of necessity and charity only excepted,) nor be present at any concert of music dancing, or any public diversion, show or entertainment, nor use any sport, game, play or recreation, on the Lord's day, or any part thereof, upon penalty of not more than *six dollars sixty six cents*, nor less than *four dollars* for each offence; half to the town, and half to the informer.

No vinter, retailer of strong liquors, innholder, or other person keeping a house of public entertainment, shall entertain or suffer any of the inhabitants of the respective towns where they dwell, or others, not being travellers, strangers, or lodgers in such house, to abide and remain in their houses, yards, orchards or fields, drinking or spending their time, either idly or at play or doing any secular business on the Lord's day, or any part thereof on penalty of *three dollars thirty three cents*, payable by such vinter, retailer or innholder, or person of such house of entertainment, for each person so entertained or suffered; and every person so drinking or abiding (except as aforesaid) shall pay a fine, not less than *two dollars*, nor more than *four* for each offence; and every such licensed person, upon any conviction, after the first, shall pay a fine of *six dollars sixty cents*, for each offence, half to the town, and half to the informer.

No person shall be present at any concert of music, dancing, or other public diversion, nor shall any

person or persons use any game, sport, play or recreation, on the land or water, on the evening next preceding or succeeding the Lord's Day, on pain of *three dollars and thirty three cents*, for each offence; and no retailer, innholder, or person licensed to keep a public house, shall entertain, or suffer to remain, or be in their houses or yards or other places appurtenant, any person or persons (travellers strangers or lodgers excepted) drinking or spending their time on the said evenings, on penalty of *three dollars and thirty three cents*, for each offence, half to the town and half to the informer.

No traveller, drover, waggoner, teamster, or any of their servants shall travel on the Lord's day, or any part thereof, (except from necessity or charity,) upon the penalty of not more than *six dollars sixty six cents*, nor less than *four dollars*, for each offence; half to the complainant and half to the county, if prosecuted before a Justice of the Peace, and if by presentment of the grand jury, the whole to the county.

Any person, being able of body and not otherwise necessarily prevented, who shall for the space of three months together absent him or herself from the public worship of God, on the Lord's day, (provided there be any place of worship at which he or she can conscientiously and conveniently attend) shall pay a fine of *ten shillings*.

If any person shall on the Lord's day, within the walls of any house of public worship, behave rudely or indecently, he or she shall pay a fine of not more than *forty shillings*, nor less than *five shillings*.

If any person or persons, either on the Lord's day, or at any other time, shall wilfully interrupt or disturb any assembly of people met for the public worship of God, within the place of their assembling, or out of it, he or they shall severally pay a fine not exceeding *ten pounds*, nor less than *twenty shillings*.

FERRIES AND FERRYMEN.

1796 C. 42, Sec. 1. No person or persons, shall keep a ferry within this commonwealth, so as to demand or receive pay, without a special license first had and obtained from the court of general sessions of the peace of the county wherein such ferry may be; and the said court is hereby empowered to grant such licenses to such person or persons, as shall be judged suitable for such service by the same court; and to state the fare or ferriage at each ferry for passengers, horses and other creatures, carriages, waggons, carts, teams and other things there transported, always having regard to the breadth and situation of, and the more or less passing at any ferry; in all cases taking bond, with sufficient sureties, of each ferry man, for the faithful performance of the duties and services of his place.

Sec. 4. Whenever the court of general sessions of the peace of any county in this commonwealth, shall judge it necessary to set up a ferry for the convenience of passing any river or waters, and no person shall appear to keep the same, for the stated profits thereof; the town or district wherein such ferry shall be, shall take effectual care to provide a suitable person or persons to keep and attend the same, at such place, and in such times of the year, as the said court shall judge necessary.

Sec. 5. If any such ferry, so judged necessary, shall be over any river or water, when one town or district joins thereto on one side, and another town or district on the other side; in such case, the said towns and districts shall, either jointly, or alternately, provide such person or persons to keep such ferry as the said court shall order.

Sec. 6. Any town or district neglecting to provide suitable persons to keep ferries, as aforesaid, shall forfeit and *pay forty dollars* for each month's neglect; one

moiety thereof to the use of the commonwealth, and the other moiety to him or them who shall inform and sue for the same: and all the forfeitures aforesaid, which may be incurred, shall be recoverable in an action of debt, with costs of suit, before a Justice of the Peace, or court of common pleas of the county wherein the ferry may be, according to the amount of the forfeitures to be recovered.

Sec. 4. Such person or persons shall be licensed by such court as aforesaid: and the said court shall take bonds with sureties of such persons for the faithful performance of the duties and services of their places; and state the fare or ferriage to be demanded and received at such ferry, having regard to the breadth and situation of, and the more or less passing at the same.

Sec. 2. All ferrymen at the several ferries in this commonwealth, shall keep a good boat or boats, in good repair, suitable to the water they are to ferry over, and give ready and due attendance on passengers, on all occasions, for the times, and according to the regulations established at any ferry; and the keeper or keepers of each ferry for every neglect of such attendance, shall forfeit and pay one dollar, and for every neglect in keeping such a boat, twenty dollars; one moiety thereof in each case, to the use of the commonwealth,* and the other moiety to him or them who shall inform and sue for the same, and be further liable to pay in an action on the case, all such special damages as any person shall sustain by such neglect.

Sec. 3. If any person or persons shall keep a ferry, or transport passengers over or across any stated ferry, so as to demand or receive pay, having no right or authority so to do, he shall forfeit and pay for every such offence, four dollars; one moiety thereof to the commonwealth, and the other to him or them who shall inform and sue for the same; and be further liable, in a special action on the case, to pay such damages as

*In case ferrymen are provided by a town or district, one moiety of the penalty accrues to such town or district. Sec. 4.

may or shall accrue to the person or persons assigned and authorized to keep any such stated ferry or ferries.

TOWNS.

HEADS.

1 Incorporation and suits at law. 2 Town meetings and Town Officers. 3 Raising money for the support of the ministry, schools, poor, and other necessary charges. 4 By laws. 5 Mischievous animals, and birds. 6 Fish. 7 Assessors. 8 Voters. 9 Deposit of Gunpowder.

NOTE. The power and duty of towns is mostly comprised under the different heads of the officers whose duty it is to carry the laws into execution—as paupers, settlement, &c. under overseers of the poor—roads, under the head selectmen &c. &c.; what is not inserted under those heads, is here inserted.

1. *Incorporation and suits at Law.*

1785 C. 75, Sec. 8. The inhabitants of every town are hereby declared to be a body politic and corporate; and as such may commence and prosecute any suit or action in any court proper to try the same; and may also defend any suit or action commenced against them, and for this purpose, the said inhabitants, qualified and convened in town meeting, may nominate and appoint one or more agents or attorneys. The choice of the agent or attorney, certified by the town clerk, shall be sufficient evidence of such appointment. And when any suit shall be commenced against any town (or other body corporate) a copy of the writ or original summons, or such other process as may issue against them, shall be left with the clerk of such town, or with one or more of the principal inhabitants there-

of (or with the clerk, or some principal member of the body corporate) thirty days at least before the day of the sitting of the court.

1792 C. 32. In all suits at law, whether of a civil or criminal nature, depending in any court, or before a Justice of the Peace, within this commonwealth, wherein any town, district, precinct or parish, or other religious incorporate society, is or may be a party, or interested in the event of the suit, any inhabitant, or member, shall and may be admitted as a competent witness, or his deposition used for or against such town or corporation: *Provided*, he hath no other interest therein, than as an inhabitant, or member, and is not otherwise legally disqualified.

2. *Town Meetings, and Town Officers.*

1785 C. 75, Sec. 6. At every town meeting, a moderator shall be first chosen by a majority of votes.

Sec. 2. The freeholders and other inhabitants of each town who are qualified voters, shall, in the month of March or April, annually meet, and by major vote choose a clerk, *three*, *five*, *seven*, or *nine*, able and discreet persons of good conversation, inhabiting in the town, to be selectmen or townsmen, and overseers of the poor where other persons shall not be particularly chosen to that office, (which towns may do if they see fit) three or more assessors, two or more persons for fence viewers, treasurer, surveyor of highways, surveyors of lumber, clerks of the market, wardens, tythingmen, sealers of leather, measurers of wood, constables, and other town officers.

NOTE. For the other officers, see the different heads.

Sec. 3. No person shall be obliged to serve in any town office two years successively.

Sec. 4. When by reason of non acceptance, death or removal of any person chosen to office in any town, at the annual meeting for the choice of town officers, *or at* any other time, or by reason of a person's be-

coming *non compos*, there is a vacancy or a want of such officers, the town being legally assembled may proceed to a new choice of officers to supply and fill up such vacancy, and the persons thus chosen, and sworn before the town clerk, or a Justice of the Peace, shall have full power to discharge the duties of their office.

Sec. 10. All matters and things, which by any law or resolve of the commonwealth, are directed to be done or transacted at the town meeting in March, may hereafter be done and transacted at a town meeting in April.

Sec. 6. Town meetings for the choice of Governor, Lt. Governor, and Senators, shall be regulated as the constitution directs, and for the choice of representatives as is otherwise by law provided—see under selectmen, heads 7, 8, 9.

1785 C. 70. Towns may, if they see cause, choose some meet person or persons to be collector or collectors of taxes, and agree upon what sum shall be allowed and paid him for his services.

3. *Raising money for the Ministry, Schools, Poor, and other necessary charges.**

1785 C. 75, Sec. 7. The inhabitants of each town, legally qualified, at the annual meeting for the choice of town officers, or at any other town meeting, regularly warned, may grant and vote such sum or sums of money as they shall judge necessary for the settlement, maintenance and support of the *ministry*, *schools*, the *poor*, and other necessary charges arising within the same town; to be assessed upon the polls and property within the same as is by law provided. [See Parish heads 2, 4 and 5, and Schools head 1, and Towns head 5.

* Stetson vs. Kempton & al. Mass. Rep. vol. 13, p. 272.—Towns have no authority in time of war, and danger of hostile invasion, to raise money for the purpose of giving additional wages to the militia, or for other purposes of defence.

4. *By Laws.*

Sec. 7. And they are also hereby empowered to make and agree upon such necessary rules, orders and by laws, for the directing, managing and ordering the prudential affairs of such town, as they shall judge most conducive to the peace, welfare and good order thereof; and to annex penalties for the observance of the same, not exceeding *thirty shillings*, for one offence; to enure to such uses as they shall therein direct: *Provided* they be not repugnant to the general laws of the government; and provided also, such orders and by laws shall have the approbation of the Court of General Sessions of the Peace of the same county.

1801 C. 62. All fines and forfeitures accruing for the breach of any bylaw, in any town, may be prosecuted for and be recovered before any Justice of the Peace in the town or county where the offence shall be committed, by complaint or information, in the same way and manner other criminal offences are now prosecuted before Justices of the Peace.

5. *Mischievous Animals and Birds.*

1817 C. 144. It shall be lawful for the inhabitants of any town, district or plantation, qualified to vote in town affairs, at any meeting of the same legally warned for that purpose, to raise any sum of money they may think proper to be distributed in bounties, to encourage the destruction of *bears*, *wolves*, and other *mischievous* animals or birds, in such sums as they shall direct.

1817 C. 103, Sec. 1. It shall not be lawful for any person to take, kill or destroy, any of the birds called *partridges* and *quails*, at any time from the first day of March to the first day of September in every year; nor any *woodcocks*, *snipes*, *larks* and *robins*, from the first day of March to the fourth day of July in each year; and if any person shall take or kill, or shall sell, buy or have in his possession after being killed, any of the birds aforesaid, he shall forfeit for each as follows: viz.

partridge, quail, or woodcock, *two dollars*, snipe, lark, or robin *one dollar*, to be recovered by any person who shall sue for the same, to his own use in an action of debt, in any court having jurisdiction; or by complaint to any Justice of the Peace, to the use of the county. On failure to pay forfeiture and costs the offender may be committed to prison for a term not less than *five* nor more than *fifteen days*.

Sec. 2. If any person shall shoot at or kill any of the birds aforesaid, or any other birds, upon lands not owned or occupied by himself, without license from the owner or occupant of such lands, at any time from the first day of March to the fourth day of July in each year, such person shall forfeit and pay to the occupant or owner of such lands, *ten dollars*, as a penalty in addition to all other actual damages, to be recovered by the party injured, by an action of trespass, in any court having jurisdiction of the amount demanded—This act shall not extend to crows, blackbirds, owls, blue jays, and hawks.

Note. The inhabitants of any town, may at their annual meeting in any year, by vote, suspend the operation of the prohibitions and restrictions contained in the above statute of 1817 C. 103, in whole or in part, within such town, and for such term of time not exceeding *one year*, as to them shall seem expedient.

1821 C. 10, Sec. 1. It shall not be lawful for any person to take, kill or destroy any *birds* on any *salt marshes* within this Commonwealth, between the first day of March and the first day of September, in each year; and if any person, within the limits of any town, that shall not dispense with the regulations of this act, in the manner hereinafter provided, do shoot, take, kill or sell, after being killed or taken, any of the birds aforesaid within the times limited as aforesaid, respectively, he shall pay for each offence *two dollars*, to be recovered by action of debt to the use of the person who shall sue for the same.—*Nothing in this* act shall prevent any owner or

occupant of land from taking or killing any birds on the lands so held by him.

Sec. 2. NOTE.—The inhabitants of any town may at their annual meeting, in any year, by vote, suspend the operation of the prohibitions and restrictions contained in the statute of 1803 C. 10, in whole or in part, within such town, and for such term of time, not exceeding *one year*, as to them shall seem expedient.

6. *Fish.*

1818 C. 45. It shall not be lawful for any person to take any of the fish, called *pickerel*, in any of the ponds, rivers, or streams within this Commonwealth, with spears, in the night time, or by shooting them, at any time, under a penalty of *fifty cents* for each pickerel so taken, to the use of the person who shall sue for the same, before any Justice of the Peace.

1819 C. 48. The inhabitants of any town, may at their annual meeting, in any year, by vote, suspend the operation of the prohibitions and restrictions contained in the above statute of 1818 C. 45, within such town, and for such term of time, not exceeding *one year*, as to them shall seem expedient.

7. *Assessors.*

1799 C. 51. If the inhabitants of any town, district or plantation, from which any state or county tax is required, neglect to choose and keep in office assessors to assess the same, as the law requires, the treasurer of the Commonwealth or county shall issue his warrant to the sheriff or his deputy to levy and collect the same, observing the same rules and regulations as are provided for satisfying warrants against deficient collectors: But it is his duty on receiving such warrant to transmit an attested copy of it to the selectmen or clerk of the town, district or plantation named therein; and if the assessors shall, within *sixty days* from the receipt thereof, deliver to the sheriff or his deputy a certificate, according to law, of the assessment of the tax required, and pay the officer his legal fees, he shall

transmit the said certificate to the treasurer, and return the warrant unsatisfied.

If they shall choose assessors who shall neglect to assess the tax required by the warrant issued, or to reassess any tax on the failure of a collector, and to certify the assessment as the law directs, and the estates of such assessors shall be found insufficient to pay the same tax, the treasurer shall issue his warrant to the sheriff or his deputy to levy and collect of the estates, real or personal, of any inhabitants so much of the sum mentioned therein as the estates of the assessors shall be insufficient to pay.

The inhabitant (not being an assessor) whose estate shall be levied upon as aforesaid, shall have an action against the town, district or plantation, to recover the full value of such estate with interest at *twelve per cent.* And in order that such actions may be supported against a plantation, each plantation is made a body politic, liable to such action, with full power to defend the same.

8. *Voters.*

See page 35.

9. *Deposit of Gunpowder.*

1824 C. 149, Sec. 1. From and after the passing of this, it shall be lawful for the inhabitants of each town in this Commonwealth, at any of their legal town meetings, to order and direct that no gunpowder above the quantity of fifty pounds, shall be kept or deposited in any shop, store or other building, which shall be within the distance of twenty five rods from any other building—and the inhabitants of each town aforesaid may also order and direct at their legal town meetings, respectively, that no gunpowder shall be kept at any place within the limits of such town, unless the same be well secured in tight casks or cannisters.

Sec. 2. Upon complaint made by either of the Selectmen of any town aforesaid to either of the Jus-

tices of the Peace within the County in which said town is situated, in which complaint is set forth by such Selectmen, that he has good cause to suspect and does suspect that gunpowder is deposited and kept within the limits of his town contrary to the provisions of this act, such Justice of the Peace may be and he is hereby authorized to issue his warrant, directed to either of the constables within the town wherein such complainant may live, ordering him to enter any shop, store or other building specified in said warrant, and there to make diligent search for the gunpowder therein suspected to have been deposited as aforesaid, and to make return of his doings to said Justice forthwith.

Sec. 3. Any person who shall violate the provisions of this act, shall forfeit and pay a sum not less than five dollars nor more than twenty dollars, to be recovered in an action of debt before any Justice of the Peace within the County wherein the offence may be committed, and to be appropriated to the use of the town, wherein the offence shall be committed: *Provided always*, That the provisions of this act shall not extend to the establishments erected for the manufacturing of gunpowder, nor in any case to prevent the transportation of the same through any of the towns in this Commonwealth.

DISTRICTS.

1785 C. 75, Sec. 9. All places incorporated by the name of districts, *before the first day of January* 1777, are hereby declared to be towns, to every intent and purpose whatever; and places incorporated by the name of districts *since* the same *first day of January* 1777, or such places as may *hereafter* be incorporated by the name of district, are and shall be entitled to all the privileges, and vested with all the powers in this Act expressed, as amply to every intent and purpose as they could have been if expressly named herein.

PARISHES.

NOTE.—A part of the powers of parishes are necessarily comprised under the different heads of town officers.

HEADS.

1 Incorporation, bounds, and suits at law. 2 Support of Religion, and contract with the Minister. 3 Parish Meeting, and choice of Parish Officers. 4 Raising money for support of Minister and for building and repairing Meeting houses. 5 Raising money for Schools. 6 Raising money for support of Music. 7 Assessment of Taxes. 8 Division of Parishes. 9 Proprietors of Churches and Meeting houses. 10 Societies regulated. 11 Voters.

1. *Incorporation, bounds, and suits at Law.*

1786 C. 10, Sec. 3, and 1783 C. 39, Sec. 4. The inhabitants of each parish and precinct are hereby declared to be a body corporate, and as such may commence and prosecute any action or suit to final judgment and execution, in any court proper to hear and determine the same, and may also defend any suit or action that may be brought against them; for which purpose they may constitute one or more agents or attornies, in the same manner [see Towns, head 1] as towns may constitute and appoint agents; and the evidence of their appointment may be ascertained in the same manner.

1786 C. 10, Sec. 1. The bounds and limits of precincts and parishes as they have been formerly settled, be and hereby are confirmed and established, until they shall be otherwise ordered by the General Court.

2. *Support of Religion and contract with the Minister.**

1799 C. 86, Sec. 2. Every corporate *town, parish, precinct, district,* and other *body politic* or *religious society,* must be constantly provided with a public protestant teacher of piety, religion and morality; and in default of being so provided and supplied, for the term of *three months* in any *six months,* such town, parish, precinct, district, and other body politic or religious society, which shall, in the judgment of the Court of General Sessions of the Peace for the same county, be adjudged of sufficient ability to be so provided, shall pay a fine for the first offence, of not exceeding *sixty dollars* nor less than *thirty,* and for each offence after the first, not exceeding *one hundred dollars* nor less than *sixty dollars,* together with costs, &c. [See Towns, head 3.]

Sec. 2. Any contract made by such town, parish, precinct, district, and other body politic or religious society, with any such public teacher aforesaid, as may be by them respectively chosen for their teacher or religious instructor, shall have the same force, and be as binding on such corporation or religious society, as any other lawful contract; and all courts having competent jurisdiction, shall have power to sustain suits brought to enforce their performance. [See head 4.]

3. *Parish Meetings and choice of Parish Officers.*

1786 C. 10, Sec. 1. The inhabitants of each parish and precinct, who are qualified voters, shall, in the month of March or April, annually, assemble together at such time and place, in the same, as they shall be notified to attend by the collector thereof, or such other person as the assessors thereof shall appoint to notify the same; and the said inhabitants shall then and

* Commonwealth vs. Waterborough. Mass. Rep. vol. 5, p. 257. An information does not lie in this court against a town for not being provided with a public protestant teacher of piety, *religion,* and morality, unless the Sessions have adjudged such *town to be of sufficient ability* to maintain such public teacher.

there, by a major vote, by ballot or such other method as they may determine convenient, choose a Clerk, who shall be under oath truly to record all votes passed in the same, or any other regular meeting of the corporation, during the time he shall remain in office; two or more able and judicious persons for Assessors,* a Treasurer, Collector* and other usual parish or precinct officers.

1817 C. 184, Sec. 2. At all parish and precinct meetings, the clerk of the parish or precinct shall preside in the choice of a moderator.

1786 C. 10, Sec. 2. The moderator may administer the oath of office to the clerk, in open meeting, in case no Justice of the Peace is present.

Moderators of parish and precinct meetings have the same powers of moderators of town meetings, and persons misbehaving are liable to the same penalties and are recovered in the same manner.

Sec. 1. The clerk (or assessors) may appoint a constable or some other person to summon the person chosen collector to appear before him to take the oath of office, which the clerk is authorized to administer to him and other parish officers. Collector refusing to serve forfeits *three pounds*† unless he is exempted from serving.

Assessors and Committee.—Sec. 2. The assessors of precincts and parishes shall be empowered to manage their prudentials, unless a committee shall specially be appointed for that purpose, which any precinct or parish is empowered to choose if they think proper; and the said committee, where any such shall be chosen, and the assessors where no committee shall be appointed, shall have like power and authority in all respects for calling parish or precinct meetings as selectmen have by law for calling town meetings; and in case of a vacancy in any parish or precinct officer chosen

* Assessors and Collectors must be sworn—see title Assessors and Collector.

† *The statute of* 1785 C. 70, Sec. 16, makes the penalty five *pounds.*

in March or April, the same vacancy may be filled at a parish or precinct meeting regularly notified, at any other season of the year.

When ten or more of the qualified voters of any precinct or parish shall signify, in writing, their desire to have any matter or thing inserted in a warrant for calling a meeting, it shall be the duty of the assessors to insert the same in the next warrant they shall issue, for that purpose; and no matter or thing shall be acted upon in such a manner as to have any legal operation whatever unless the subject matter thereof shall be inserted in the warrant for calling the meeting.

And in case the assessors shall unreasonably refuse to call a meeting, or a parish or precinct shall have no assessor within it to call one, or not a major part of the assessors or committee which any parish may agree upon to be chosen, any Justice of the Peace for the same county, upon the application of ten or more of the voters in the parish or precinct, may call a meeting, in the same manner as a Justice of the Peace is by law authorized to call a town meeting.

1807 C. 63, Sec. 1. The inhabitants of each parish qualified to vote in parochial affairs, shall have power at any legal meeting, to agree upon the mode of notifying all future meetings of such parish.

Sec. 2. All parish meetings which have heretofore been notified, or which shall hereafter be notified by posting up warrants in public places within the bounds of such parish or precinct, where no other mode of notifying has been or shall be agreed upon by such parish, shall be deemed to be legal meetings, and their votes shall be held to be good and valid.

4. *Raising Money for support of Ministers, and for building and repairing Meeting Houses.**

1786 C. 10, Sec. 3. The qualified voters of any

* Bangs vs. Snow & al. Mass. Rep. vol. 1, p. 181. Parishes have no authority to grant monies except for settling ministers and building houses of public worship, [*and for Schools, see page* 179.] and for purposes necessarily connected with those objects. *Note* This decision was prior to the statute of 1821 C. 67.—*See hereof* 5 & 6.

parish or precinct, at the annual meeting in March or April, or at any other meeting regularly notified, at least seven days before holding thereof, may grant and vote such sum or sums of money as they shall judge necessary for the settlement, maintenance and support of ministers, or public teachers of religion; for the building or repairing of houses of public worship, and all other necessary parish or precinct charges, to be assessed on the polls and property within the same as by law provided. [See head 9.]

5. *Raising Money for Schools, (See Schools, head 1.)*

6. *Raising Money for the support of Music.*

1821 C. 67. The inhabitants of each town, district or parish, qualified to vote in town, district or parish affairs, shall have power at their annual meeting, to raise, in the same manner that other town, district or parish charges may now by law be raised, such sum or sums of money, as they may deem sufficient to defray all the cost and charges which may be necessary for the support and maintenance of sacred music, in their respective towns, districts and parishes as aforesaid.

7. *Assessment of Taxes.**

1799 C. 87, Sec. 4. Taxes are to be assessed in the same proportion as state or town taxes are assessed. Quakers are to be exempted from taxation by filing a certificate with the town clerk. [See page 25, and Towns, 32.]

Act passed 1824, Feb. 16. It shall be the duty of the assessors of every parish, precinct or religious society, in assessing or levying taxes for the support of

*Thurston (Benjamin) vs. Silas Little & al. Mass Rep. vol. 3 p. 429. Assessors of parishes must make a list, and valuation o taxable property, before assesing a tax, or their assessment will be illegal and void.

Martin vs. Mansfield. Massachusetts Reports. Assessors are to make the apportionment of their taxes according to the rules prescribed in the next preceding tax act of the legislature.

* See Form 160—and Form 94.

public worship, and all charges incident thereto, to assess all the property, both real and personal, (not exempted by law from taxation) of all the members thereof, wherever the same may be situate within this Commonwealth, and no citizen of this Commonwealth being a member of any religious society in the Commonwealth shall be assessed or liable to pay any tax for the support of public worship, or other parish charges, to any parish, precinct or religious society whatever, other than to that of which he is a member.

8. *Division of Parishes.*

1786 C. 10, Sec. 4. Where any town or district consisting of but one parish only, has been or shall be divided or made into two or more precincts or parishes, any engagements or contracts before entered into shall remain in force. &c.

Sec. 5. Where a parish or precinct is regularly set off, the remaining part shall be an entire parish, and be considered the first or principal parish.

9. *Proprietors of Churches and Meeting Houses.*

1817 C. 189, Sec. 1. Whenever the proprietors of any church, meeting house, or other house of public worship, shall deem it expedient to alter, enlarge, repair, rebuild or remove the same, it shall be lawful for them, at a legal meeting called for that purpose, to raise such sums of money, as they may judge needful, to carry any of said purposes into effect, and to purchase any land necessary for the same. And such monies may be assessed on the pews in such church or house, and the assessment be committed to the treasurer chosen by said proprietors to receive the same, who shall forthwith give notice thereof, by posting up an advertisement, stating the completion of such assessment, and the day of delivery thereof to him at the principal outer door of such house; and if said taxes, or any part thereof, remain unpaid for the space of three months beyond the time of posting up notifications as aforesaid, it shall be the duty of the said

treasurer to collect the same forthwith, by sale, at public vendue, of the pews whereon the tax, or any part thereof, shall remain unpaid, in manner herein after provided.

Sec. 2. Whenever it shall become the duty of the treasurer to sell said pews as aforesaid, he shall post up a notification of the intended sale thereof, at the principal outer door of such church or house, at least three weeks before the time of sale, therein setting forth the numbers of pews, if any, the names of the owners or accupants, if known, and the amount of taxes due thereon. And if said taxes, or any of them remain unpaid at the time appointed for such sale, the treasurer shall sell every pew whereon the tax or any part thereof is unpaid, at public vendue, to the highest bidder, and shall make, execute and deliver to the purchaser, sufficient deeds of conveyance of the same; and the monies arising from such sale, over and beyond the taxes and incidental reasonable charges, said treasurer shall pay over to the former owners of the pews so sold, respectively, or their assigns, on demand.

Sec. 3. The affidavit of any disinterested person, on the back of any original notification, or a copy thereof, made before any Justice of the Peace, in the same county, and recorded on the proprietors' records, within six months next after such sale, shall be one mode of proof of the posting up of the notifications herein before required.

Sec. 4. Any meeting of said proprietors, for any of the purposes mentioned in this act, may be called by warrant from any Justice of the Peace in the same county, granted on application to him in writing, by any five of said proprietors, and directed to one of them; or by notification by the clerk of said proprietors, on like application; and in either case, such meeting may be warned by posting up a notification thereof, at the principal outer door of such church or house, fourteen

days at least, before the time appointed for such meeting.

Sec. 5. Whenever said proprietors shall deem it necessary for the purpose of repairing, altering, enlarging or rebuilding any such church or house, to take down any pews therein, it shall be lawful for such proprietor so to do, such pews being first appraised by a committee of disinterested persons, chosen by said proprietors for that purpose. And the pews newly erected, shall be sold by the treasurer of said proprietors, at public vendue, to the highest bidder, in manner herein before directed, and deeds thereof given as aforesaid; and the monies arising from such sale shall first be applied to the payment to each proprietor of such pew taken down, of the value thereof appraised; the deficiency, if any, to be paid by said proprietors; such payment to be made within thirty days next after such sale.

10. *Societies Regulated.**

Act passed 1824, Feb. 16. Sec. 1. Every parish, precinct, and religious society, may organize itself agreeable to the statute of 1786 C. 10, and the acts in addition thereto. And any Justice of the Peace, within the county wherein any parish, precinct, or religious society may be, which is not organized agreeable to said acts, is hereby authorized, upon application, therefor, by any ten or more of the legal voters, to issue a warrant for calling the first meeting thereof, directed to some suitable member, requiring him to notify and warn the members thereof, qualified by law to vote in town affairs, to meet at some time and place as shall be appointed in such warrant, to choose all such officers, and transact all such business as parishes are by law authorized to choose and transact in the month of March and April annually.

*Assessment of society taxes, see head 7, and Form 94.

*1811 C. 6, Sec. 3. In case any donation is made to an unincorporated religious society, they shall have full power to manage the same, to elect trustees, agents, officers, &c. and to prosecute for any right in consequence of the same.

Sec. 2. Any person may separate from his own parish or religious society and join another, either of the same or of a different denomination, by filing with the clerk of the society left, a certificate of the fact, under the hand of the clerk of the society, which such person elects to join; but such person shall remain liable to pay all such taxes as may have been actually granted or assessed against him previous to such separation; and any person who may come to dwell within any town, shall be deemed and taken to be a member of the oldest religious society in such town, unless such person shall, previous to the first day of May following, file with the clerk of such religious society, a certificate that he or she has joined him or herself to, and is a member of some other religious society, within this Commonwealth, under the hand of the clerk thereof.

11. *Voters.*

1824 Feb. 16, Sec. 1. In all parish meetings the qualifications of the voters shall be the same as are now required by law to vote in town affairs. [See page 35.]

NOTE. The following laws could not be inserted in the work for want of room, and they are therefore referred to, only. They have not much connection with municipal concerns, but it may be convenient for individaals and corporations to know where they may find the *whole* law relating to the several subjects here named.

Commissioners of Sewers.

1795 C. 62, & Mass. Rep. vol. 14, page 387.

Proprietors of Aqueducts.

1798 C. 59.

Proprietors of General and Common Fields.

1785 C. 53—1794 C. 38, Sec. 12—1796 C. 13—1818 C. 11—1820 C. 1, Mass. Rep. vol. 14, page 440.

Proprietors of Common & Undivided Real Estate.

1783 C. 39—1790 C. 40.

Proprietors of Social, Law, and Military Libraries.

1805 C. 72, Sec. 1, 2, 3,—1806 C. 66. Sec. 1.—1814 C. 178, Sec. 1, 2, 3.

Proprietors of Private Ways and Bridges.

1787 C. 17 —1801 C. 80—1821 C. 101.

Laying out Highways.

1797 C. 30—1802 C. 135—1818 C. 121.
Discontinuing.—1812 C. 121—1819 C. 44.

Plantations.

Since the separation of Maine, it is almost unnecessary to encumber a book with the laws relating to Plantations; what is not incidentally inserted in the work, however, is here referred to.

1785 C.46 Sec. 10, 11, 12, 13—1785 C. 50, Sec. 12, 13—1785 C. 70 Sec. 12, 13.

NOTE. The above Books referred to, are in the office of every Town Clerk.

FORMS.

FORM 1. [See page 13.]

Warrant of the Town Clerk, for town officers to appear and take the oath.

[L. S.] To one of the Constables of the town of GREETING.

The following is a list of the names of those persons who were chosen into office at a meeting of the inhabitants of said town holden on the day of A. D. of whom an oath by law is required, viz:

* * * *

You are hereby required in the name of the Commonwealth of Massachusetts, within three days from date, to notify and summon each and every of the said persons, to appear before me within seven days from the time you shall give such notice, to take the oath prescribed, to the offices unto which they are respectively chosen: And you are to make return of this Warrant, with your doings thereon, within ten days from the date hereof.

Dated at this day of A. D. 18

} *Town Clerk.*

FORM 2. [See page 146.]

Constable's Return.

Pursuant to the within (or above) warrant, I have notified and summoned the several persons to appear

before the Town Clerk, at the time, and for the purposes within (or above) described.

Dated at this day of A. D.

} *Constable of*

FORM 3. [See page 14.]

Certificate of votes for Governor and Lieutenant Governor.

At a legal meeting of the inhabitants of the of in the county of and Commonwealth of Massachusetts, qualified by the Constitution to vote for Governor and Lieutenant Governor, holden on the day of April, being the first Monday of said month, in the year of our Lord one thousand eight hundred and for the purpose of giving in their votes for Governor and Lieutenant Governor of said Commonwealth.—The whole number of votes given in, were sorted, counted, recorded, and declaration thereof made, as by the Constitution is directed—and were for the following persons.

For Governor }

For Lieutenant Governor }

} *Selectmen of*

Attest, *Town Clerk.*

N. B. Insert the number of votes in words at full length, *and not in figures.*

FORM 4. [See page 15.]

Certificate of votes for Senators and Counsellors.

At a legal meeting of the inhabitants of the
of in the county of
and Commonwealth of Massachusetts, qualified by the Constitution to vote for Senators and Counsellors, holden on the day of April, being the first Monday of said month, in the year of our Lord one thousand eight hundred and
for the purpose of giving in their votes for Senators and Counsellors, for the district of
The whole number of votes given in, were sorted, counted, recorded, and declaration thereof made, as by the Constitution is directed—and were for the following persons:

For

Selectmen of

Attest, *Town Clerk.*

N. B. Insert the number of votes in words at full length, *and not in figures.*

FORM 5. [See page 17.]

Certificates of votes for County Treasurer.

At a legal meeting of the inhabitants of the town of qualified by the Constitution to vote for Representatives, holden in said town on the day of A. D. 18 . The inhabitants aforesaid gave in their votes for a County Treasurer, and the same being sorted and counted in

the meeting by the Moderator thereof, and Town Clerk, were for the following persons:

For

For

A true copy of record. Attest,

Dated at the day of A.D. 18 . } *Town Clerk.*

FORM 6. [See page 18.]

Certificate of Votes for County Register.

At a legal meeting of the Inhabitants of the Town of qualified by the Constitution to vote for Representatives, holden in said Town on the day of A. D. 18 . The Inhabitants aforesaid brought in their votes for a County Register, and the same being sorted and counted by who were [or was] chosen to sort and count the votes, for that meeting, were for the following persons:

For

For

Dated at the day of A. D. 18 .

A true copy of Record. Attest, } *Town Clerk.*

FORM 7. [See page 18.]

Publishment of an intention of Marriage.

Mr. A. B. of C. and Miss E. F. of G. intend marriage. Entered May 1st 1825.

Dated at Freetown, May 1st 1825.

} *Town Clerk.*

FORM 8. [See page 20.]

Certificate of Publishment.

I certify that an intention of Marriage between of and of hath been entered with me fourteen days prior to the date hereof, and published in the town of as the law directs.

Given under my hand this day of A.D.18 .

} *Town Clerk.*

FORM 9.

Minister's return of Marriages.

To the Town Clerk of

I hereby certify to you that the following list of persons, comprises all the persons which I have joined in Marriage within the year last past, viz.

} *Minister of the Gospel.*

Dated April, 18 .

FORM 10.

Certificate to the Clerk of the Court of Sessions.

To Esq. Clerk of the Court of Sessions for the County of . I hereby certify that A. B. a Minister of the Gospel, (*or Justice of the Peace, as the case may be*) in the Town of neglected in the month of April last to make return of all the Marriages by him solemnized within the year then last past, as the law directs.

Dated at said the day of A. D. 18

} *Town Clerk.*

FORM 11. [See page 21.]

**Complaint against a person who neglects to give notice of Births or Deaths.*

To A. B. Esq. one of the Justices of the Peace for

the County of Essex, C. D. of E. in said county, *(addition)* in his own behalf, on oath, complains, &c. that G. H. of P. in said county *(additian)* being *(or having been)* the parent of a child born *(or deceased)* more than six months last past, has neglected for that space of time after the said birth *(or death)* to give notice thereof to the Clerk of the said Town of P. whereby the said G. has forfeited and ought to pay a fine of *one dollar* with costs of suit, to the use of the said C. D.; against the peace, &c.

**Dickinson's Justice.* C. D.

FORM 12. [See page 21.]

Notice to the Town Clerk of Goods Found.

To , Clerk of the Town of . This is to give notice that on the day of I found at the following articles, viz. the owner to me is unknown.

Dated at A. D. 18 .

Signed A. B.

FORM 13. [See page 21.]

Notification to be posted up of Lost Goods.

Notice is hereby given that I, the subscriber, found *(here mention the place)* on the day of the following articles, viz. . The owner unknown to me.

Dated at A. D. 18 .

Signed A B.

FORM 14. [See page 22.]

Notice of a Stray Beast to be entered with the Town Clerk.

Taken up by the subscriber on the day of running astray, and at large in the Town of *(a red cow supposed to be six years old with*

the letter M. on her hip) the owner to me is unknown.
Dated A. D. 18 .

A. B.

N. B. This will answer for the notification to be *posted.*

FORM 15. [See page 22.]

Warrant of the Town Clerk to appraise Lost Goods, or Stray Beasts.

[L. S.] To C. D. and E. F. two disinterested and judicious persons both of G. in the County of E.

GREETING.

You are hereby appointed and required to appraise upon oath at the true value thereof in money according to your best judgment found *(if it is a stray beast, say taken up)* by A. B. of G. who has entered, posted, *(and cried)* the same as the law directs.

And you are to make return of this warrant with your doings thereon, into the Town Clerk's office of said G. within seven days from the date.

Given under my hand and seal at G. this day of A. D. 18 .

} *Town Clerk.*

FORM 16. [See page 22.]

OATH.

ss. G.

The above (or within named) C. D. and E. F. personally appeared and made oath that they would faithfully appraise the goods *(or beast)* therein mentioned, according to their best judgment. Before me,

} *Town Clerk.*

FORM 17.

Appraiser's Return.

Pursuant to the within warrant we have appraised the goods *(or beast)* within mentioned at
(or as follows, viz.)

C. D.
E. F.

Dated at A. D. 18

FORM 18. [See page 24 and 195.]

Warrant for ascertaining damage done by creatures, to be issued at the request of the Owner of such creatures.

[L. S.] To A. B. and C. D. of H. two disinterested and judicious persons, GREETING.

You are hereby appointed and required faithfully and impartially to ascertain and estimate upon oath the damage done to G. H. by one red cow belonging to J. K. which has been taken up and impounded by the said G. H. damage feasant, in the town pound of

Given under my hand this day of A. D. 18

} *Town Clerk.*

FORM 19. [See page 24 and 195.]

OATH.

SS. The above named A. B. and C. D. personally appeared and made oath, that they will estimate the damages above named, faithfully and impartially according to their best skill and judgment—Before me

} *Town Clerk.*

FORM 20. [See page 24 and 195.]

Appraiser's Return.

Pursuant to the within *(or above)* warrant we have

considered the damage done to G. H. by the creatures herein mentioned, and do estimate the damage at

A. B.
C. D.

NOTE. Forms 18 and 19 the Town Clerk cannot issue provided there is a Justice of the Peace in the town.

FORM 21. [See page 24 and 196.]

Warrant for estimating damages and appraising creatures, issued by the request of the person impounding.

COMMONWEALTH OF MASSACHUSETTS.

[L. S.] ss. To J. K. *(addition)* and L. M. *(addition)* both of E. in said county, two disinterested and judicious persons, GREETING.

Upon the application of C. D. of said E. *(addition)* to me A. B. Esquire, one of the Justices of the Peace, within and for said county, requesting me to issue this warrant; You are hereby appointed and directed upon oath, faithfully and impartially to estimate the damages which the said C. has sustained by belonging to G. H. of said E. *(additon)* which have been taken damage feasant, and are now impounded in the pound in said E. and also faithfully and impartially to appraise so many of the said creatures so impounded, as shall be sufficient to answer the said damages and all charges. Hereof fail not, and make due return of this warrant with your doings therein, into the office of the clerk of said E. as soon as the business is performed. Given under my hand and seal, at said E. the day of , in the year of our Lord one thousand eight hundred and

} *Town Clerk of C.*

FORM 22. [See pages 24 and 196.]

OATH.

Essex ss. *Boylston, June 1st,* 1825.

Then personally appeared the said and and made oath that they would faithfully and impartially discharge the duties required of them by the foregoing warrant, according to their best skill and judgment. Before me,

A. B. } *Town Clerk of*

FORM 23. [See pages 24 and 196.]

Appraiser's Return.

Pursuant to the foregoing warrant we have upon oath estimated the damages therein referred to, at the sum of , and have also appraised , one of the said creatures impounded at the sum of to answer the damages and all charges.

J. K.
L. M.

FORM 24. [See pages 24 and 205.]

Precept to sell Swine impounded when the owner is known. (Legal form.)

[L. S.] ss. To either of the Constables of the town of . GREETING.

Whereas A. B. of B. in the county of S. [addition] has this day given me information, that on the day of he found a swine [*here insert the marks, natural and artificial, if any, and such a description of the size and age, as can conveniently be done*] owned by C. D. of [additon] going at large in said town of B. against the statute in that case provided; whereby the said C. D. forfeited the sum of one shilling; for the recovery of which he impounded the same swine, and within twenty four hours

then next following, gave him notice thereof, in writing *(or left a notification thereof at his dwelling house, as the case may be)* and although three full days have elapsed since the impounding, yet he has not paid the said forfeiture and charges, nor has he replevied the same swine, as by the information by him signed and sworn unto, with me now remaining, appears:

These are therefore, in the name of the Commonwealth of Massachusetts, to will and require you, after you have posted up notifications of the time and place of sale, twenty four hours beforehand, to sell and dispose of the said swine, at such time and place as you shall have thus appointed, to the highest bidder; and from the monies arising upon the sale, you are to pay the said A. B. one shilling for the said forfeiture, and shillings and pence, by me allowed, for his costs, charges and expenses (according to the bill annexed) and one shilling and six pence more for this precept, amounting in the whole to shillings and pence. And the surplus arising from such sale, deducting three shillings and sixpence for your own fees on the business, you are to pay over to the town treasurer of B. to be disposed of as the law directs; and you are also directed to deliver the said treasurer a copy of the information of the said A. B. as it is recited herein, together with the certificate of the date of this process: And of this precept, with your doings hereon, you are to make return into the office of the town clerk of B. in fourteen days from this time. Given under my hand and seal this day of Anno Domini

J. B. } *Town Clerk.*

Application for this precept—see Form 142.

FORM 25. [See pages 24 and 205.]

Precept to sell Swine impounded when the owner is unknown. (Legal form.)

[L. S.] ss. To either of the Constables of the town of . GREETING.

Whereas A. B. of B. in the county of S. [addition] has this day given me information, that on the day of he found a swine [*here insert the marks natural and artificial, if any, and such a description of the size and age as can conveniently be done*] belonging to some person unknown at the time of impounding, going at large against the statute in that case provided, whereby the owner forfeited the sum of one shilling, for the recovery of which he impounded the same swine, and within *twenty four hours* then next following, caused notifications of the time, place and cause of impounding to be posted up agreeably to the directions of the law in such cases; and although three full days have elapsed since the impounding, no person hath appeared to pay the said forfeiture and charges, or replevied the same swine as by the information by him signed and sworn unto with me now remaining appears.

These are therefore, &c. [same as in Form 24.]

Application for precept—see Form 144.

FORM 26. [See pages 24 and 25.]

Choice of a Guardian.

Know all men by these presents, that I, A. B. of C. in the county of S. and Commonwealth of Massachusetts, a minor, above the age of fourteen years, and a son of late of said C. deceased, have chosen, ordained and constituted, and do by these presents, choose, ordain and constitute E. F. of said C. [addition] with full power and authority, for me and in my name, and, for my use, to ask, demand, sue for, recover, receive, and take into possession and custody,

all and singular such part and portion of the estate of me the said A. as has accrued, or may hereafter accrue to me as heir to the estate of my said father, or which may otherwise appertain or belong to me; and to manage, employ, and use the same for my best advantage and profit, during my minority, and to do all other lawful acts and things, whatsoever concerning the premises, as fully and effectually in every respect, as I myself might, or could do personally, if I were of full age.

In witness whereof, I have hereunto set my hand and seal, the day of in the year of our Lord one thousand eight hundred and

Signed, sealed and delivered in presence of }
P. R.
S. W.

A. B. [L S.]

FORM 27. [See pages 24 and 25.]

Certificate thereof.

S , ss , 18 .

To the honorable J. D., Esquire, Judge of Probate within and for the said county;

This is to certify, that the within named A. B. subscribed to the foregoing instrument, living more than ten miles distance from your honor's dwelling house, personally appeared and made choice of the said E.F., to be his guardian as in and by the same instrument appears; Before, me there being no Justice of the Peace in the the town.

S. D. { *Town Clerk of*

FORM 28. [See pages 25, 46 and 146.]

Certificate of the choice of a Constable.

This certifies that at a legal meeting of the inhabitants of the town of holden at in said town

on the day of A. D. 18 , A. B. was chosen into the office of constable for the said town for the ensuing year, [*and has taken the oath prescribed for that office, if that be the case.*]

Dated at the day of A.D. 18 .

Attest, } *Town Clerk.*

FORM 29. [See page 25.]

Oath of Appraisers.

You and each of you solemnly swear that you will faithfully and impartially discharge the duties required of you by the foregoing warrant, according to your best skill and judgment. *So help you God.*

FORM 30. [See page 25.]

Certificate thereof.

P. (or B.) , ss. 18 .

Then personally appeared the said C. D., E. F. and G. H., all of P. or B., in said county, and freeholders and made oath, that they would faithfully and impartially discharge the duties required of them by the foregoing warrant according to their best skill and judgment; Before me, there being no Justice of the Peace dwelling in the town.

A. B. } *Town Clerk.*

FORM 31. [See page 25.]

Religious certificate. (Legal form.)

We certify that A. B. of the town of , is a member of the religious society in the town of , called . Dated this day of A. D. 18 .

} *Committee.*

FORM 32. [See page 26.]

Quakers' certificate. (Legal form.)

We, the subscribers, being a committee chosen and appointed by a religious sect or denomination of Christians called Quakers or Friends, to exhibit a list or lists of the names of such persons as belong to said society, do hereby certify, that do belong to said society, and they do frequently and usually, when able, attend with us in our stated meetings for religious worship, and we verily believe are of our religious persuasion.

} *Overseers.*

Countersigned, } *Clerk.*

FORM 33. [See page 26.]

Dogs.

Oath to be administered to one who has been assaulted by a dog, or found such a dog out of the enclosure of the owner.

You solemnly swear that within forty eight hours last past, you have been suddenly assaulted by a dog belonging to G. H. of P. in the county of L. while quietly and peaceably walking (or riding) in the public highway from P. to S. in said county, (or, that within forty eight hours last past, you have been suddenly assaulted by a dog, &c. and have since found the said dog strolling out of the enclosure of the said G.) and that you really suspect the said dog to be a dangerous and mischievous dog. *So help you God.*

FORM 34. [See page 26.]

Certificate thereof.

L ss. 18 .

I hereby certify that C. D. of E. in said county, personally appeared and made oath that within forty eight hours last past he has been suddenly assaulted,

&c. and that he really suspects, &c. (as in the preceding form.) Before me,

A. B.

FORM 35. [See page 26.]

Subpœna for Witnesses. (Legal form.)

S ss. To A. B. of C. [addition.] GREETING

You are hereby required, in the name of the Commonwealth of Massachusetts, to make your appearance before the Justices of the next to be holden at B. within and for the county of S. on the Tuesday of to give evidence of what you know relating to an action or plea of then and there to be heard and tried betwixt A. B. of C. [addition] plaintiff, and D. E. of E, (addition) defendant. Hereof fail not, as you will answer your default, under the pains and penalty in the law in that behalf made and provided. Dated at B. the day of in the year of our Lord

A. D. *Town Clerk.*

FORM 36. [See page 31.]

Oath of Retailer, Tavern keeper, &c. (Legal form.)

I, A. B. do swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and that I will to the utmost of my power, defend the Constitution and Government thereof against traitorous conspirators, and all hostile and violent attempts whatsoever.

SELECTMEN.

FORM 37. [See page 34.]

Request for a Town meeting.

To the Selectmen of

Gentlemen—The undersigned being freeholders, and

inhabitants of the town of respectfully request you to issue a warrant to call a town meeting as soon as may be, to act on the following articles, viz. [*here enumerate the purposes.*]

C. D.
E. F. &c.

Dated at , Oct. 12, 1823.

FORM 38. [See page 34.]

Or,

——request you to insert in the warrant for the next town meeting the following articles, viz.

FORM 39. [See pages 34 and 42.]

Warrant for a town meeting for the choice of town officers, and town affairs.

To one of the Constables of the town of GREETING.

You are hereby required in the name of the Commonwealth of Massachusetts to notify and warn the male inhabitants of said town qualified by law to vote in town affairs, to meet and assemble at on the day of at o'clock in the noon, to act on the following articles, viz.

1st. To choose a Moderator.

2d. To choose town officers for the ensuing year.

3d. To give in the votes of the electors for a County Treasurer.

4th. To

Hereof fail not and make return of this warrant with your doings thereon to the Town Clerk, at the time and place above mentioned. Given under our hands at this day of A. D. 18 .

Selectmen of

FORM 40.

Constable's Return.

Pursuant to the within warrant I have notified and warned the male inhabitants of said town qualified as therein expressed, to meet at the time and place and for the purposes therein named.

} *Constable of*

Dated at A. D. 18 .

FORM 41. [See page 36.]

List of Voters.

Lee, Feb. 20th, 1825.

The following list contains the qualified voters of said town, in the election of Governor, Lieutenant Governor, Counsellors and Senators, Representatives to Congress, to General Court, and Town Officers, and and in town affairs, viz.

A.	C.
B.	D. &c.

The selectmen hereby give notice that they will be in session at the house of on the day of from o'clock noon to o'clock in the noon for the purpose of correcting the aforesaid list of voters, and they further give notice that they will be in session for the above purpose at the house of for one hour at least, on the day of any meeting for any of the above officers, and before the opening of the same.

} *Selectmen of*

FORM 42. [See page 37.]

Warrant for the choice of Governor, Lieutenant Governor, Senators and Counsellors.

[L.S.] To Constable of the town of

GREETING.

You are hereby required in the name of the Com-

monwealth of Massachusetts, to notify the male inhabitants of said town of qualified by the Constitution to vote for Governor, Lieutenant Governor, Senators, and Counsellors, to meet and assemble at , in said town on Monday the day of April next ensuing, at o'clock noon to give in their votes for Governor, Lieutenant Governor, Senators and Counsellors agreeably to the Constitution of said Commonwealth.

Hereof fail not and make return of this Warrant with your doings thereon to the subscribers at the time and place above mentioned. Given under our hands and seal at this day of A. D. 18 .

} *Selectmen of*

FORM 43.

Constable's Return.

Pursuant to the above *(or within)* warrant, I have notified and warned the male inhabitants of said town qualified as therein expressed to meet the time and place, and for the purposes within *(or above)* mentioned.

Dated A. D. 18

} *Constable of*

FORM 44. [See page 41.]

Warrant for the choice of Representatives to the General Court.

[L. S.] To one of the Constables of the town of

GREETING.

You are hereby required in the name of the Commonwealth of Massachusetts to notify and warn the male inhabitants of said town being twenty one years

of age and upwards, qualified as the Constitution prescribes, to vote for Representatives to meet at in said town of the day of at o'clock noon, for the purpose of choosing one or more *(if the town is entitled to send more than one)* Representatives to represent said town in the General Court, appointed to be convened and held at Boston on the last Wednesday of May.

Hereof fail not, and make return of this warrant, with your doing thereon to the subscribers, at the above mentioned time and place.

Given under our hands and seal at this day of A. D. 18 .

} *Selectmen of*

NOTE. If the selectmen wish to act on town affairs at the same time—insert, before the words "Hereof fail not, &c." And you are further required by the authority aforesaid to notify and warn the male inhabitants of said qualified to vote in town affairs, to meet and assemble at o'clock noon on said day, and at the above said place to act on the following articles viz:

1st. To choose a moderator.

2d. ———————— &c. &c.

FORM 45. [See page 41.]

Constable's Return.

Pursuant to the within warrant, I have notified and warned the male inhabitants of said town qualified as therein expressed, to meet at time and place, and for the several purposes therein named.

Dated at A. D. 18 .

} *Constable.*

FORM 46. [See page 17 and 42.]

Representatives to Congress.

Warrant.

[L. S.] To Constable of the town of

GREETING.

You are hereby required in the name of the Commonwealth of Massachusetts, to notify and warn the male inhabitants of the town of who are qualified by the Constitution to vote for Representatives in the General Court of this Commonwealth, to meet and assemble at on the day of November, being the first Monday of said month, at o'clock noon to give in their votes for a Representative of said Commonwealth in the Congress of the United States for the District Hereof fail not, and make return of this warrant with your doings thereon, to the subscribers at the time and place above mentioned.

Given under our hands and seal at A. D. 18 .

} *Selectmen of*

FORM 47.

Constable's Return.

Pursuant to the within *(or above)* warrant I have notified and warned the male inhabitants of said qualified as therein required, to meet at the time and place for the purpose therein mentioned.

Dated at A. D. 18 .

} *Constable of*

FORM 48. [See page 17 and 42.]

Certificate of votes for Representatives to Congress.

At a legal meeting of the inhabitants of the of in the county of

and Commonwealth of Massachusetts, qualified by the Constitution to vote for Representatives in the General Court, holden in the
day of being the Monday of said Month, in the year of our Lord one thousand eight hundred and for the purpose of giving in their votes for a Representative of said Commonwealth, in the Congress of the United States, for the District. The whole number of votes given in, were sorted, counted, recorded and declaration thereof made, as by law is directed—and were for the following persons—

For

} *Selectmen of*

Attest, *Town Clerk.*

N. B. Insert the number of votes in words at full length, *and not in figures.*

FORM 49. [See page 41 and 147.]

Certificate of the choice of Representatives in the General Court.

COMMONWEALTH OF MASSACHUSETTS.

Pursuant to a law of this Commonwealth, the freeholders and other inhabitants of the town of
in the county of qualified according to the Constitution, having been duly convened in town meeting, on the day of May current, for the choice of Representatives in the Legislature of this Commonwealth, did then and there elect

being inhabitant of said town and qualified as the Constitution requires, to represent them in the General Court to be convened and holden on the last Wednesday of the same month.

Dated at this day of May, in the year of our Lord one thousand eight hundred and and in the year of the Independence of the United States of America.

} *Selectmen of the town of*

The person chosen as aforesaid notified thereof and summoned to attend; By me, Constable of

---

FORM 50. [See page 42.]

List of Jurors.

The following is a list prepared by the selectmen of comprising those persons who in their judgment are well qualified to serve as jurors, and their names are placed in the jury box accordingly, viz:

* * * *

All which is submitted to said town for their revision, alteration and confirmation.

Dated at the day of A.D. 18 . } *Selectmen of*

FORM 51. [See page 45.]

Complaint to be lodged with Judge of Probate against a spendthrift or dissipated person.

E. ss. To Esq. Judge of Probate of wills, &c. for said county of

Complains, A. B. C. D. E. F. Select-

men, (or a major part of the Selectmen) of the town of G. in said county, That in their judgment H. J. of said G. does, by excessive drinking, [*gaming, idleness and debauchery, as the case may be,*] so spend, waste, and lessen his estate, as thereby to expose himself and his family to want and suffering circumstances, and does also thereby endanger and expose the town of G. to a charge or expense for his and their maintenance and support.

They therefore pray, that your Honor would appoint some person or persons, as guardian or guardians, to the said H. J. agreeable to the law of this Commonwealth in such cases made and provided.

Dated at G. this day of A. D. 18 .

A. B. }
C. D. } *Selectmen of G.*
E. F. }

NOTE. White's view of jurisdiction, and proceedings of Courts of Probate, page 82.

Care should be taken by the Selectmen to have their complaint framed pursuant to the statute. It must distinctly state facts sufficient to bring the case within the purview of the law, and should contain all the general charges intended to be alleged against the respondent, that he may have notice of them, and an opportunity to make his answer. *Also*, It must appear that the spendthrift, although adjudged liable to guardianship, has consented to the appointment of the person who applies for the trust, or has had notice of the application.

FORM 52. [See page 45.]

Form of approbation on the Deed binding Orphan Children.

We the subscribers, Selectmen of the town of P. *having* examined the terms of the within Deed, do

hereby express our approbation of the same, and of the said A. B. binding himself as therein mentioned.

Dated

S. F.
B. F. } *Selectmen of*
H. R.

FORM 53. [See page 46.]

Selectmen's Return on an Order of Inquisition.

To Esquire, Judge of Probate of wills, &c. for the county of

Pursuant to the foregoing (*or within*,) order of your Honor, to us directed, we have made inquisition as to the fact therein referred to, and find that the said is and do adjudge that he is incapable of taking care of himself.

Dated at this day of A. D.

} *Selectmen of*

FORM 54. [See page 47.]

Schedule of Military Stores.

To Esq.

Commanding officer of the Regiment Brigade Division M. M.

In compliance with the statute of this Commonwealth of 1821 C. 92, we have made out the following schedule which contains all the articles of military stores with which the town of is supplied, viz :

Submitted by A. B.
C. D. } *Selectmen of*
E. F.

Dated August A. D. 18 .

FORM 55. [See page 49.]

Complaint for injuring a Guidepost.

COMMONWEALTH OF MASSACHUSETTS.

S ss, 18

To A. B. Esq. one of the Justices of the Peace, within and for said county.

C. D. of E. in said county, *(addition)* in behalf of said Commonwealth, on oath, complains and informs the said Justice, that G. H. of P. in said county *(addition)* at S., in said county on the day of did then and there with force and arms, injure, mar, and deface a certain guide post there before that time duly erected, and constructed according to law, and situated at a place called , in said S. at the corner or angle of the and roads against the peace of the said Commonwealth, and contrary to the form of the statute in such case made and provided. Wherefore the said C. prays that the said G. may be apprehended, and held to answer to this complaint and further dealt with relative to the same according to law. C. D.

FORM 56. [See page 50.]

Notice to be given to perambulate.

To the Selectmen of the town of

Gentlemen—The undersigned Selectmen of do hereby give you notice that we have appointed the day of at o'clock noon, to meet at to perambulate, run and renew the lines between our towns agreeable to the statute of 1785 C. 75, when and where, and for which service you are respectfully requested to attend.

Dated A. D. 18 .

} *Selectmen of*

FORM 57. [See page 50.]

Appointment of two persons to perambulate if given by the Selectmen of one town.

To and both of

GREETING.

We, the subscribers, Selectmen of by virtue of the statute of 1785 C. 75, do hereby appoint you to perambulate, run and renew, the dividing lines between said town and the town of in conjunction with the Selectmen of said town or such persons as they shall appoint in writing for that purpose; and you are to make return of your doings into the Town Clerk's office as soon as the business is performed.

Given under our hands this day of A.D.18 .

} *Selectmen of*

FORM 58. [See page 50.]

Appointment of two persons to perambulate, when done by the Selectmen of both towns.

To of and of

GREETING.

We the subscribers Selectmen of and respectively, by virtue of the statute of this Commonwealth of 1785 C. 75, do hereby appoint you to perambulate and run the dividing line, and renew the marks between said towns. And you are to make return of your doings into the Clerk's office of each town as soon as the business is performed.

Given under our hands this day of A.D.

} *Selectmen of*

} *Selectmen of*

FORM 59. [See page 50.]

Perambulation of Lines.

We, the subscribers, Selectmen of
and have this
day of A. D. met, agreeable to notice given by Selectmen of
being the most ancient town, for the purpose of perambulating and running the lines and renewing the marks between our said town, and having attended that service, make return as follows, viz:

Beginning at * * * * * *

Dated at A. D. 18 .

} *Selectmen of*

} *Selectmen of*

FORM 60. [See page 51.]

Request to the Selectmen to lay out a private Way.

To the Selectmen of

Gentlemen.—The undersigned, being inhabitants and freeholders of said town, respectfully request you to lay out a town road or private way rods in width from to as soon as may be, and lay your doings before the town for their approval.

Dated at the day of A. D.
&c.

FORM 61. [See page 50.]

Private Way laid out for the use of the town by the Selectmen.

We the subscribers, Selectmen of
being met this day of for the purpose of laying out a town or private way, from to have attended that ser-

vice and laid out said road for the use of the town as follows, viz:

Beginning at and running (*S. 10 degrees E.*) rods to thence The said road to lay on the *(westerly)* side of said described courses, and to be rods in width.

Dated A. D. 18 .

Submitted by A. B. } *Selectmen of*
C. D. }
E. F. }

FORM 62. [See page 51.]

Application to Court when Selectmen refuse to lay out a private Way.

To the Honorable Justices of the Court of General Sessions of the Peace for the county of began and holden at in said county on the of A. D. 18 .

The undersigned freeholders and inhabitants in the town of in said county Humbly shows, that as a private way from to in said town is much wanted for the use of the inhabitants of said town, and although application hath been made to the Selectmen of said town to lay out the same, they have unreasonably delayed and still do unreasonably delay, and refuse so to do: They therefore request that your Honors would cause the same to be laid out by a committee of three disinterested freeholders agreeably to law, and as in duty bound will ever pray.

Dated at this day of A. D. 18 .

FORM 63. [See page 53.]

Form of application, when towns refuse to approve of a way laid out by the Selectmen.

To the Honorable Justices of the Court of General

Sessions of the Peace for the county of
began and holden at in said county,
on the A. D. 18 .

The undersigned inhabitants and freeholders of the town of in said county, Humbly show, That a private way from to in said town is much wanted, and that although the Selectmen of said town have laid out such way, and reported the same to the town at a public meeting of the inhabitants thereof regularly notified and warned; yet the town has unreasonably delayed and refused to approve and allow of the same. By which refusal and delay, your petitioners consider themselves aggrieved. They therefore pray that your Honors would accept and approve of the said private way, laid out as aforesaid, and direct the same to be recorded in the town book of or order the said way to be laid out by a committee of three disinterested freeholders, to be appointed by your Honors for that purpose; as your Honors in your wisdom shall see fit, and as in duty bound will ever pray.

Dated at the day of
A. D. 18 .

FORM 64. [See page 52.]

Application for a discontinuance of a private way.

To the Honorable &c. *(as before)*
A. B. of C. in said county, Humbly shews, That at a regular meeting of the inhabitants of the town of C. on the day of A. D. they approved of a private way previously laid out by the Selectmen of said town as follows viz:

And by the continuance of said way your petitioner is much aggrieved and in-

jured: He therefore prays that your Honors would order and direct a discontinuance of the same.

Dated at this day of A. D.
A. B.

FORM 65. [See page 52.]

Application for a Jury when towns discontinue a private way.

To the Honorable &c. (*as above.*)
A. B. of C. in said county, complains, and makes known to your Honors, That at a regular meeting of the inhabitants of the town of C. on the day of A. D. they approved a private way previously laid out by the Selectmen of said town as follows, viz:

And that afterwards at a regular meeting of the inhabitants of said town of C. on the day of A. D. the following vote was passed and recorded in the town book, viz: "

"; by which the said private way is discontinued, against the convenience of many of the inhabitants, (*if that is the case*) and particularly injurious and grievous to your petitioner.

He therefore prays, that your Honors would inquire into and determine the matter, by a jury thereunto appointed as well with respect to the necessity and convenience by such discontinuance, as to the damage that has accrued and may accrue, to your petitioner, and thereupon to assess damages for him to be paid by said town of C.

Dated at this day of A. D.
A. B.

FORM 66. [See page 52.]

Application for a highway or county road.

To the honorable Justices of the Court of General Sessions of the Peace to be holden at within and for the county of on the Tuesday of in the year of our Lord one thousand eight hundred and

Humbly shew the subscribers, that a new county road, leading from to in said , is of common convenience or necessity; that by means of such new road, the travel from to , will be diminished rods. They also represent that the said new road will render the present county road from to useless and whereby the keeping in repair that expensive road will become unnecessary.

Wherefore your petitioners pray your Honors, after due proceedings in the premises to appoint a committee to locate the said new road, and to discontinue the highway aforesaid; and as in duty bound will ever pray.

A. B.
C. D.
Dated &c.

FORM 67. [See page 53.]

Assignment of Surveyor's limits.

[L. S.] To A. B. one of the Surveyors of highways for the town of We, the subscribers, Selectmen of said town, do hereby assign to you for repairs and amendment of the highways and townways that are within the following limits, viz.

Given under our hands and seal this day of A. D. 18 .

} *Selectmen of*

FORM 68. [See page 53.]

Return to be made to the Clerk of the Court of Sessions. (Legal Form.)

We, the subscribers, Selectmen of the town (or district) of do hereby certify, that we have maturely considered the returned list of such persons as were licensed the year past, and, to the best of our knowledge, the following persons named therein have maintained good rule and order in their respective houses or shops, and have conformed to the laws and regulations respecting licensed persons, and are firmly attached to the Constitution and laws of this Commonwealth.

} *Selectmen of*

FORM 69. [See page 53.]

Certificate of Selectmen when a person is to be originally licensed. (Legal Form.)

We, the subscribers, Selectmen of the town (or district) of do approve of (inserting the name of the person and the employment for which he or she is approbated) in the said town (or district) for the year ensuing; and we do hereby recommend the said as a person of sober life and conversation, suitably qualified and provided for the exercise of such an employment, and firmly attached to the Constitution and laws of this Commonwealth.

} *Selectmen.*

FORM 70. [See page 55.]

List of Drunkards, &c. to be posted up.

To all persons who are licensed to sell spirituous liquors in the town of

Whereas A. B. C. D. E. F. &c. &c. of said town, as it has been made to appear to us, do by idleness

and excessive drinking of spirituous liquors so mispend their time and estate as to expose themselves to want, and the town to a charge and expense for their maintenance—We, therefore, the selectmen of said town, agreeably to a law of the Commonwealth, in such cases made and provided, do hereby forbid your selling spirituous liquors to the persons above named for the space of one year from the date hereof.

Given under our hands this day of A. D.

} *Selectmen.*

FORM 71. [See page 66.]

Receipt for a Wolf's head. (Legal Form.)

Received of the head of a grown wolf (or wolf's whelp) said to be killed by the said in said town of ; the ears of which were cut off and burned.

} *Selectmen of*
} *Constable of*

Dated A. D.

FORM. [See page 66.]

Certificate. (Legal Form.)

To the Treasurer of the Commonwealth of Mass.

This certifies, that there hath been allowed and paid out of the town stock of the sum of for grown wolves, and the sum of for wolves' whelps, killed in or near unto said town, and within this Commonwealth, since the day of last, and the heads thereof brought unto a constable of said town, and the ears cut off and burnt in the presence of one or more of the selectmen of said town, as the law directs, and so certified, amount-

ing in the whole to the sum of which you are desired to allow to said town by paying the same to treasurer of said town.

Dated at aforesaid, this day of A.D. 18 .

} *Selectmen of*
Town Treasurer.

FORM 72. [See page 175.]

Request for a Warrant for a town meeting respecting building a School House, when a majority of a School District is opposed to it.

To the Selectmen of the town of

Gentlemen—The undersigned freeholders and inhabitants of school district No. 2, in said town, request you agreeable to the statute of 1814 C. 142, to insert an article in your warrant for the next town meeting, requiring the opinion of the town, relative to the building a school house in said district, and to grant such a sum of money as they think necessary for defraying the expense of the same, to be assessed on the polls and estates of the inhabitants of said district.

FORM 73. [See page 175.]

Request to the Selectmen to call a School Meeting to build a School House.

To the Selectmen of the town of

Gentlemen—The undersigned freeholders and inhabitants of school district No. 2, request you to issue a warrant as soon as may be, for a meeting of the inhabitants of said school district, who are qualified voters in town affairs, to act on the following articles, viz :

1st. To choose a moderator.

2d. To choose a school district Clerk.

3d. To see if the school district will vote to build a school house, and to raise money &c. &c. &c.

Dated A. D.

FORM 74. [See page 175.]

Warrant for a School District Meeting.

To A. B.

You are hereby required to notify and warn the male inhabitants of school district No. 2, qualified to vote in town affairs to meet at in said district on the day of at o'clock noon, to act on the following articles, viz :

And have you there this warrant with your doings thereon, at said time and place.

Dated at A. D.

} *Selectmen of*

FORM 75. [See page 175.]

Return on the above Warrant.

Pursuant to the within warrant I have notified all the qualified voters of said district either personally or by notification in writing left at their usual place of abode, seven days before holding the meeting.

Dated at

FORM 76. [See page 182.

Recommendation of a School Master to keep a Grammar School.

We, the subscribers, Selectmen of the town of do hereby certify that to the best of our knowledge Mr. of said town sustains a good moral character.

Dated

} *Selectmen.*

NOTE.—A certificate also must be produced from a minister in the place where the school is to be kept or two other ministers in the vicinity thereof that they have reason to believe he is well qualified and is of competent skill in the Greek and Latin languages.

FORM 77. [See page 184.]

Recommendation of a master or mistress to keep a primary School.

We, the subscribers, Selectmen of the town of do hereby certify that who proposes to keep a school in said town, for the education of children in the most early stages of life, is a person of sober life and conversation and well qualified to keep such school.

Selectmen or Committee.

Settled Minister in said Town.

Dated at

FORM 78. [See page 213.]

Appointment of Sealer of Weights and Measures.

Pursuant to an act of the Legislature of this Commonwealth entitled "an act for the due regulation of Weights and Measures," passed February 26, 1800, (statute of 1799 C. 60, Sec. 4.) We, the subscribers, have appointed and do hereby appoint of to be a Sealer of Weights and Measures within said town the ensuing year. Given under our hands at said the day of A. D.

Selectmen of

FORM 79. [See page 217.]

Appointment of Measurer of Wood and Bark.

By virtue of the statute of 1796 C. 67, Sec. 2—We, the subscribers, have appointed and do hereby appoint , of to be a Measurer of Wood and Bark, exposed or brought into said town for sale, for the year ensuing: And you are to receive for your fees the sums following, and no more, viz. Given under our hands at said the day of A. D.

} *Selectmen of*

FORM 80. [See page 224.]

License of Auctioneers.

By virtue of the statute of 1795 C. 8, Sec. 1—We, the subscribers, at a meeting held for the purpose of licensing Auctioneers, and all having had notice, have licensed and do hereby license and appoint of to be Auctioneer, to make sale of any kind of goods or chattels whatsoever at public vendue or outcry, for the term of one year from the date, and no longer, unless your license is renewed.

Given under our hands at said this day of A. D.

} *Selectmen.*

NOTE.—Auctioneers when they apply, should be prepared to give bonds.

FORM 81. [See page 230.]

Appointment of Enginemen.

By virtue of the statutes of 1785 C. 72, and 1805 C. 82—We, the subscribers, have nominated and appoint-

ed and do hereby nominate and appoint the following persons to be enginemen, viz.
and they are to be attached to engine No. 2, within the town of and to continue in said office during the pleasure of the Selectmen.

Given under our hands at said the day of A. D.

} *Selectmen.*

FORM 82. [See page 233.]

Appointment of Inspectors and Markers of Lighters.

By virtue of the statute of 1800 C. 75, Sec. 2—We, the subscribers, have appointed and do hereby appoint of to be Inspector and Marker of Lighters for the term of one year from the date.

Given under our hands at said the day of A. D.

} *Selectmen.*

FORM 83. [See page 234.]

Appointment of a Weigher of Beef.

By virtue of the statute of 1815 C. 99, Sec. 1—We the subscribers, have appointed and do hereby appoint of to be a Weigher of Beef, for the said town of

Given under our hands at said the day of A.D.

} *Selectmen of*

FORM 84. [See page 237.]

Appointment of a Weigher of Onions.

By virtue of the statute of 1784 C. 25, Sec. 14—We,

the subscribers, have appointed and do hereby appoint of to be a Weigher of Onions for the said town of

Given under our hands the day of A. D.

} *Selectmen.*

ASSESSORS.

FORM 85. [See pages 81 and 177.]

Certificate of Assessment of a State Tax to be returned to the State Treasurer. (Legal Form.)

Pursuant to a warrant from the Treasurer of the Commonwealth of Massachusetts, dated the day of A. D. We have assessed the polls and estates of the of the sum of and have committed lists thereof to the of said viz. to with warrants in due form of law, for collecting and paying in the same to Treasurer of said Commonwealth, or his successor in office, on or before the day of next ensuing.

In witness whereof, we have hereunto set our hands at this day of A. D.

A. B.
C. D. } *Assessors.*

FORM 86. [See page 82.]

Notification to be posted before assessing a Tax.

To the inhabitants of the town of in the county of

We, the subscribers, Assessors of the said town of being about to proceed to make an assessment of the State, County and Town Taxes, for the year do hereby notify and warn you, and each of you, liable by law to

be assessed, to make and bring in to us, the said Assessors, on or before the day of next, true and perfect lists of your polls, and all your estates, both real and personal, (saving such estate as is by law exempted from taxation,) which you were possessed of on the first day of May inst. otherwise you will not be admitted to make application to Court for any abatement of the assessments about to be laid as aforesaid.

Given under our hands at this day of A. D.

Assessors of the town of

FORM 87. [See page 82.]

Oath to be administered to a person who is suspected of keeping back taxable property.

You solemnly swear that the list of your polls and estate presented by you for taxation to the Assessors for the town of for the year A. D. is true. *So help you God.*

FORM 88. [See page 84.]

Form of Commitment of Tax Bills.

To Collector of Taxes for the town of

The following is a list of assessments upon the polls and estates of the persons therein named, each one their respective proportion of the sum of for a State, County, and Town Tax, being for the year the sum total of said tax, which we hereby commit to you to collect with a warrant in due form of law.—The proportion of the State Tax to the whole sum is and the proportion of the County Tax to the whole sum is And you are to pay in the same as follows, viz:

To Treasurer of the Commonwealth of Massachusetts or his successor in office on or before the day of A. D.

To Treasurer of the County of or his successor in office the sum of on or before the day of A. D.

To Treasurer of said Town of or his successor in office the remaining sum of on or before the day of A. D.

And you are to complete and make up an account of your collection of the whole sums aforesaid, on or before the said day of A. D.

Given under our hands this day of A. D.

Assessors of said town of

FORM 89. [See page 84.]

Form of the warrant for collecting State taxes. (Legal Form.)

[L. S.] ss. To A. B. Constable or Collector of the town of A. within the county of S. GREETING.

In the name of the Commonwealth of Massachusetts, you are required to levy and collect of the several persons named in the list herewith committed unto you, each one his respective proportion, therein set down, of the sum total of such list, it being this town's proportion of a tax or assessment of pounds shillings and pence, granted and agreed upon by the General Court of said Commonwealth, at their session, begun and held at B. on the day of for defraying the necessary charges of securing, protecting and defending the same; and you are to transmit and pay in the same unto T. I. Treasurer and Receiver General of this Commonwealth, or to his successor in that office, and

to complete and make up an account of your collections of the whole sum, on or before the day of ; and if any person shall refuse or neglect to pay the sum he is assessed in the said list, to distrain the goods or chattels of such person to the value thereof; and the distress so taken, to keep for the space of four days, at the cost and charge of the owner; and if he shall not pay the sum so assessed within the said four days, then you are to sell at public vendue the distress so taken, for the payment thereof, with charges; first giving forty eight hours' notice of such sale, by posting up advertisements thereof in some public place in the town, district or plantation (as the case may be;) and the overplus arising by such sale, if any there be, besides the sum assessed, and the necessary charges of taking and keeping the distress, you are immediately to restore to the owner; and for want of goods or chattels, whereon to make distress (besides tools or implements necessary for his trade or occupation, beasts of the plough necessary for the cultivation of his improved lands, arms, utensils for house keeping necessary for upholding life, bedding and apparel necessary for himself and family) for the space of twelve days, you are to take the body of such person, so refusing or neglecting, and him commit unto the common gaol of the county, there to remain until he pay the same, or such part thereof as shall not be abated by the assessors, for the time being, or the Court of General Sessions of the Peace, for the said county.

Given under our hands and seal, by virtue of a warrant from the treasurer aforesaid, this day of A.D.

A. B. }
C. D. } *Assessors.*

NOTE. The warrant to be issued for collecting county, town, district, plantation, precinct or parish rates or assessments shall also be made out by the *assessors thereof in* the same tenor, mutatis mutandis.

FORM 90., [See page 86.]

Notice to be ~~posted by~~ the assessors when the Treasurer is Collector.

The inhabitants of the town of and others, liable to pay taxes in said town are hereby notified, that a list or their state, county, town and school taxes for the year is lodged with the Treasurer, and that agreeable to a vote of the town, deductions therefrom will be made as follows, viz: on all taxes voluntarily paid said Treasurer at his office, within 30 days from the date hereof, per cent; over 30, and not exceeding 60 days per cent; over 60, and not exceeding 120 days per cent, after which time, not any deductions will be made.

Statute of 1815, C. 130, Sec. 2. *Be it further enacted*, That all such inhabitants of the said towns, who shall voluntarily pay the said collector, or his deputy, within thirty days next after the delivery of their tax bills, the amount of their respective taxes, shall be entitled to an abatement of such sum, as said town at their annual meeting may agree upon, on the amount of their said taxes; and such inhabitants, as shall voluntarily pay their taxes to the said collector or his deputy, within sixty days after the delivery of their tax bills, shall be entitled to an abatement of such sum as may be agreed upon as aforesaid, on the amount of their said taxes; and all such inhabitants as shall voluntarily pay to the said collector or his deputy, within one hundred and twenty days after the delivery of their tax bills, shall be entitled to an abatement on the amount of their said taxes, of such sum as may be agreed upon as aforesaid.

M. N.
W. G. } *Assessors.*
G. W. L.

Dated at A. D. 18 .

FORM 91.

Commitment of a Highway Tax to a Surveyor of Highways.

[L. S.] To one of the Surveyors of Highways within the town of The following is a list of the persons and the sums at which they are severally assessed in a highway rate; committed to you, and cast at And you are to cause the same to be expended in labor and materials upon the highway and townway within your limits, and to allow a man per day while working on the ways, a yoke of oxen a plough a cart And you are to cause one half at least of the said sum of to be laid out and expended before the first day of July next. And you are also directed to render to us a list of such persons as shall be deficient in working out their highway rate with such deficient sums at the expiration of your term.

Poll Taxes.		*Real.*		*Personal.*		*Total.*	
D.	C.	D.	C.	D.	C.	D.	C.

Given under our hands and seal at the day of A. D. 18 .

} *Assessors.*

FORM 92. [See page 88.]

Appointment of a Collector to complete the collection of one who is deceased.

To of , &c. GREETING.

Whereas A. B. collector of taxes for the of to whom the assessors of said for the year committed to collect a list of assessments, dated amounting to the sum of *hath lately* deceased, before his having adjusted the

accounts of said assessment. And whereas upon a settlement of such part thereof as the said A. B. received in his life time, it appears that the sum of remained uncollected:

We, therefore, the assessors of said of do, by virtue of a law of the Commonwealth in such cases made and provided, hereby appoint you a collector to collect the said sum of , of the several persons named in the list herewith committed to you each one his respective portion therein set down according to law; and herein you are to execute all such powers as were by law granted to the said deceased.

Given under our hands and seal this day of A. D. 18 .

A. S. &c.

FORM 93. [See page 93.]

Complaint to the Court of General Sessions of the Peace of a person who thinks he is over rated.

To the Honorable Court of General Sessions of the Peace, for the county of begun and holden at P. in and for said county, on the day of A.D. 18 .

Complains A. B. of , in said county of that the assessors, of said town of for the year (viz. W. S. P. W. and H. R.) in their list of assessments, committed to G. W. collector of the said town, have apportioned upon your complainant the sum of at which he considers himself aggrieved, and although he has made application to the said assessors (or the assessors for the time being, *as the case may be,)* they refuse to make any abatement. Wherefore he applies to this honorable Court for relief, and prays that your Honors, agreeably to a law of this Commonwealth in such cases provided, would order him a reimbursement out of the treasury of the said town, of

such sum as your Honors shall see cause to abate him with the charges of this process, and as in duty bound will ever pray.

A.B.

FORM 94.

Method of making Taxes.

NOTE. The following method of assessing taxes, was politely furnished the author by BENJAMIN GREENLEAF, A. M. Preceptor of that excellent Institution, *Bradford Academy.* Mr. Greenleaf is considered one of the first Mathematicians in the state, and has spent much time to render the system perfect.—*Assessors of Parishes and Societies* will here find a correct way to apportion the *poll taxes*, an instance, wherein there has been numerous gross errors.

Method of assessing Town, State, and County Taxes.

RULE. 1.

FIRST. Say as the whole amount of the state tax, which the town has to pay the state, is to the poll tax, which each individual pays the state; so is the whole amount of the town, state, and county taxes, which the town has to raise, to the poll tax, which is to be assessed on each individual; then multiply this poll tax by the number of polls in the town, subtract this product from the amount of all the taxes, and note the remainder; then say, as the valuation of the town is to this remainder, so is one dollar to the sum, that must be assessed on the dollar.

Example.

Suppose the State Treasurer sends to the town of A., that their proportion of the state tax of $75,000 is $277 20, of which the polls are to pay 11 cents each, and the remainder to be assessed equally on the estates real and personal. The county tax required is $554,40,

and the town vote, to raise $1940,40, to defray town charges. The valuation of the town is $154,000, and it contains 420 polls. What will be B's. tax, who stands in the valuation, as follows:

Real estate $3678. Personal estate $526; and 3 polls?

OPERATION.

```
                    277,20          420 number of polls.
 D. C.   C.         554,40          1,10
277,20 : ,11 : : 1940,40        $462,00
                  ---------
                  2772,00
                      ,11
                  ---------  D. C.
        277,20) 304,92 00 (1,10 Poll tax.
                 27720
                 -----
                  27720
                  27720                2772,00
                  -----                 462,00
                 D.     C.             -------
$154000 : 2310,00 : : 1,             $2310,00
          1
          ---------  C. M.
154000) 2310,00 (,01,5 to be assessed on the dollar.
        154000
        ------
         770000
         770000
         ------
```

TABLE.

	$10000	$1000	$100	$10	$1,	10 cts.	1 ct.
1	150,	15,	1,50	,15	,01,5	,00,15	,00,01
2	300,	30,	3,00	,30	,03,0	,00,30	,00,03
3	450,	45,	4,50	,45	,04,5	,00,45	,00,04
4	600,	60,	6,00	,60	,06,0	,00,60	,00,06
5	750,	75,	7,50	,75	,07,5	,00,75	,00,07
6	900,	90,	9,00	,90	,09,0	,00,90	,00,09
7	1050,	105,	10,50	1,05	,10,5	,01,05	,00,10
8	1200,	120,	12,00	1,20	,12,0	,01,20	,00,12
9	1350,	135,	13,50	1,35	,13,5	,01,35	,00,13

Now to know the amount of B's. taxes, his real estate being $3678. I find by the table, that

$3000 pays - - -	$45,00
600 do.	9,00
70 do.	1,05
8 do. - - -	,12
	$55,17

His personal estate being $526, it is found by the table, that

$500 pays	$7,50
20 do.	,30
6 do.	9
	$7,89
Three polls at $1,10 each,	$3,30
His real estate must then pay	55,17
His personal estate,	7,89
Three polls at $1,10 each,	3,30
Total B's. tax for town, state, and county,	$66,36

The above is to be set down in a table properly *ruled for this* purpose. [See page 85.]

NOTE. To find what proportion the state or county tax bears to the whole tax; divide the whole amount of taxes, by the state or county tax and the quotient will show the fractional part.

State tax,	$277,20
County tax,	554,40
Town tax,	1940,40

```
State tax,        277,20) 2772,00 (1-10
                          2772,00
                          -------

            Dlls.    Dlls.
          554,40)  2772,00 (1-5
                   2772,00
                   -------
```

Thus we see, that 1-10th of each man's tax is to the state, and 1-5th to the county.

RULE 2.

Multiply any person's real or personal estate by the sum, that is assessed on the dollar, and the product will be the sum, for which he is to be taxed for it.

Example.

Real estate,	$3678
Personal estate,	526
Assessed on the dollar,	,000,01,5
$3678	$526
,015	,015
18390	2630
3678	526
$55,17,0	7,89,0

Total.

Real estate,	$55,17
Personal estate,	7,89
Three polls at $1,10 each,	3,30
Amount of B's. taxes,	$66,36

Method of assessing Parish Taxes.

Rule. 1.

First. Say as the amount of the taxes, which the town pays to the state, is to the amount of what the polls in the town pay to the state, so is the sum to be raised by the parish, to the sum, that must be assessed on the polls. Then say as the number of polls in the parish is to the sum that must be assessed on the polls, so is one poll to what each poll has to pay. Then multiply the number of polls in the parish by the sum, that is to be assessed on each poll, subtract the amount from the sum, which the parish is to raise, and note the remainder; then say as the valuation of the parish is to this remainder, so is one dollar to what must be assessed on the dollar.

Note. The same rule is to be observed in assessing society and school district taxes.

Question.

The town of A. pays $277,20 to the state. $46,20 of which is assessed on the polls. The valuation of south parish is $95,000, and there are 228 polls.—The parish vote to raise $684 to defray parish charges. What will be B's. tax, who is an inhabitant of the south parish, and whose real estate is $3678, personal estate $526, and has three polls?

Operation.

```
$277,20 : $46,20 : : $684.
            684
          ------
           18480
          36960
         27720
         -------
27720) 3160080 ($114
       27720
       -------
        38808
        27720
        -------
        110880
        110880
        -------
```

Polls.		Poll.
228 :	$114 : :	1
	1	
		Cts.
228)	114,00	(,50
	1140	
		0

```
      $684
       114
      ----
      $570
```

Polls	228
	50
$114,00	

```
$95,000 : $570 : : $1.
             1
          ------
95,000) 570,000 (,006 on the dollar.
        570,000
```

TABLE.

	$10000	$1000	$100	$10	$1	10 cts.	1 ct.
1	60,	6,	,60	,06	,006	,0006	,0000
2	120,	12,	1,20	,12	,012	,0012	,0001
3	180,	18,	1,80	,18	,018	,0018	,0001
4	240,	24,	2,40	,24	,024	,0024	,0002
5	300,	30,	3,00	,30	,030	,0030	,0003
6	360,	36,	3,60	,36	,036	,0036	,0003
7	420,	42,	4,20	,42	,042	,0042	,0004
8	480.	48,	4,80	,48	,048	,0048	,0004
9	540,	54,	5,40	,54	,054	,0054	,0005

Now to find the amount of B's. taxes, his real estate being $3678, I find by the table, that

$3000	pays	$18,00,0
600	do.	3,60,0
70	do.	,420
8	do.	,048
		$22,06,8

His personal estate being $526 it is found that

$500	pays	3,000
20	do.	,120
6	do.	,036
Total.		3,156

His real estate is taxed,	$22,06,8
His personal estate,	3,15,6
Three polls at ,50 each,	1,50,0
Amount of B's. taxes,	$26,72,4

The above is to be set down in a table properly ruled for this purpose. [See page 85.]

RULE 2.

Any man's real or personal estate being multiplied by the sum that is assessed on the dollar, the product will be the sum for which it must be taxed.

Example.

Real estate,		$3678
Personal estate		526
Real $3678	Personal	526
,006 on the dollar.		006
22,06,8		3,15,6

Total.

Real estate must pay	$22,06,8
Personal estate do.	3,15,6
Three polls at ,50 each,	150,0
Amount of B's. taxes,	$26,72,4

OVERSEERS OF THE POOR.

FORM 95. [See page 95.]

Complaint of a town or district who have been at expense for the support or relief of any pauper.

To the Honorable Justices of the Court of Common Pleas for the county of began and holden at in said county on the of

The undersigned Overseers of the Poor of the town of in said county, in behalf of said town Complain that they have expended within six months from the date hereof, the sum of for the relief and support of a poor person who stood in need thereof and who has kindred in the line or degree of by consanguinity, living in in this Commonwealth, of sufficient ability.

They therefore pray that your Honors would assess and apportion the said sum of or such sum as your Honors shall think reasonable for said relief and support to the present time, together with costs upon said kindred, viz:

by name (or such of them as you shall judge of sufficient ability, if more than one.)

And also pray, that your Honors would assess and apportion upon them, such weekly sum for the future, as your Honors judge sufficient for the support of such pauper.

Dated at A. D.

} *Overseers of the Poor.*

FORM 96. [See page 98.]

**Application of the Master of a House of Correction to the Overseers of the Poor, to discharge a person committed to such House.*

C. ss. To the Overseers of the Poor of the town of *P.*

Gentlemen—This is to signify to you, that A. B. who stands committed to the house of correction, in said P. or to the gaol of said county, used as a house of correction, there being no such house provided for that purpose, *(as the case may be)* by order of S. F. Esq. one of the Jurtices of the Peace for said county, [*here insert the cause for which he is committed,*] hath applied to me, the subscriber, keeper of said house (or gaol) for a discharge from the same. T. M.

Dated A. D. 18 .

**Freeman.*

FORM 97. [See page 98.]

**Order for the Discharge of a person committed to the House of Correction.*

C. ss. To the Master of the House of Correction in said county,

GREETING.

Or, *(as the case may be)* To the Keeper of the Gaol in said county, the same being made use of as a House of Correction, there being no such house provided for that purpose,

GREETING.

Whereas you have signified to us, that A. B. who stands committed in said house, (or gaol) by order of S. F. Esq. one of the Justices of the Peace for said county, [*here insert the cause for which he was committed*] hath applied to you for a discharge from said house, (or gaol) and it appearing to us that the ends of such commitment have been answered:

You are therefore hereby ordered to discharge the said A. B. from his confinement in said house, (or gaol) the charges arising therefrom being first paid, as the law in such cases provides.

Given under our hands this day of A.D.18 . .

B. T. }
P. W. } *Overseers of the Poor of* said town.
S. M. }

**Freeman.*

FORM 98. [See page 99.]

Indenture by the Overseers of the Poor to bind out a poor male child.

This indenture, made the day of in the year of our Lord between A. B. and C. D. Overseers of the Poor of the town of , in the county of on the one part, and A. M. of the said town, *(addition)* on the other part, *witnesseth*, that the said Overseers have bound out, and do by these presents bind out, as an apprentice to said G. W. of county aforesaid *(addition)* a poor child named son of who is settled in, and become chargeable to said town, to learn the trade of . The said after the manner of an apprentice, to dwell with and serve the said G. W. from the date hereof until the day of which will be in the year of our Lord faithfully during all which term of time the said apprentice shall well serve his said master, and shall not absent himself, and shall in all things, and at all times, carry and behave himself as a good and faithful apprentice ought.

And the said G.W. on his part, promises and agrees, to instruct and teach the said apprentice, or cause him to be instructed and taught, in the said trade of in the best manner he is capable of being taught, and to cause him to be instructed to read, write and cypher *(as far as the rule of three,)* if he be capable so to learn; and shall find and provide good and sufficient victuals, drink, clothing and lodging, and the other necessaries, *(if such is the agreement, viz: in sickness and health)* fit and convenient, comfortable and decent for such apprentice, during such time, and will endeavor to bring him up in a moral manner as far as practicable *(and at the end of said term to give him a good suit of clothes*, or as the agreement may be.)

In testimony whereof the parties aforesaid, have hereunto *interchangeably* set their hands and seals this day of A. D. 18 .

Signed sealed and delivered in presence of } *Overseers of the Poor.*

G. W.

FORM 99. [See page 99.]

Complaint against a Master who injures or neglects his apprentice.

To the Honorable Justices of the Court of Common Pleas for the county of begun and holden at in said county, on of The undersigned Overseers of the Poor of the town of in said county, in behalf of said town, Complain that A. B. has been legally bound out to in said county of and the said has abused and ill treated *(or neglected as the case may be)* the said apprentice having *(here enumerate some of the cases of abuse or neglect.)* They therefore make this complaint to your Honors, and pray that the said apprentice may be liberated, and discharged from his said master; and that execution may be awarded against the said for costs.

Dated A. D.

} *Overseers of the Poor.*

FORM 100. [See page 100.]

Complaint of a Master against his Apprentice or Servant for misbehavior.

To the Honorable Justices of the Court of Common

Pleas for the County of begun and holden at in said county, on the Monday of A. D. 18 .

Complains of &c. that who has been legally bound to him by the Overseers of the Poor of the town of as an , has [*here insert his misconduct*] for which misbehavior he prays that your honors would discharge him from his apprenticeship (*or service*) agreeable to the law in such cases made and provided, and as in duty bound will ever pray.

Dated A. B.

FORM 101. [See page 100.]

**Complaint to a Justice of the Peace to apprehend a Servant or an Apprentice eloped.*

COMMONWEALTH OF MASSACHUSETTS.

L. , ss. 18 .

To A. B. Esquire, one of the Justices of the Peace, within and for said county.

C. D. of E. in said county [*addition*] on oath, complain and informs the said Justices, that G. H. on the day of , at said E. a minor, under the age of twenty one years, being then and there bound to the said C. as an apprentice, (or servant) did elope (or depart) from the service of the said C. against the peace of the said Commonwealth, and contrary to the form of the statute in such case made and provided: Wherefore the said C. prays that the said G. may be apprehended, and held to answer to this complaint, and further dealt with, relative to the same, according to law. C. D.

L. ss. 18 . Then personally appeared the said C. D. and made oath to the truth of the foregoing complaint, by him subscribed; Before me,

A. B. *Justice of the Peace.*

**Dickinson's Justice.*

FORM 102. [See page 110.]

Indenture to bind out a person above the age of twenty one years.

This indenture made this day of A. D. by and between A. B., C. D. and E. F. overseers of the poor of the town of in the county of on one part, and G. H. of in said county, on the other part, *witnesseth:*

That the said overseers by virtue of the statute of this Commonwealth of 1793 C. 59, have set to work and do hereby set to work and bind out to the said G. W. for the space of one whole year from the date hereof L. B. a married [*or unmarried*] person upwards of twenty one years of age, able of body, who has no visible means of support, lives idly, and neither uses nor exercises any ordinary or daily lawful trade, or business to get his living by; during which time the said L. B. shall faithfully serve the said G. H. and obey all his lawful commands, not wasting any of his goods, nor doing any damage to him whatsoever; and the said G. H. on his part doth hereby covenant and engage to pay the said overseers, for the service of the said L. B. for the term aforesaid, the sum of to be improved by the said overseers for the support of the said L. B's. family, [*if he has no family, the said L. B.*] In testimony whereof the parties aforesaid have hereunto *interchangeably* set their hands and seals, the day and year above mentioned.

Signed, sealed and delivered in presence of us.	A. B.	[L. S.]
	C. D.	[L. S.]
	E. F.	[L. S.]
	G. H.	[L. S.]

FORM 103. [See page 110.]

Application of a person bound out, for his discharge.

To the Honorable Justices of the Court of Com-

mon Pleas for the County of begun and holden at in said County, on the day of A. D. 18 .

The undersigned complains and makes known to your Honors: That having his legal settlement in and being over twenty one years of age, he has been bound out by the overseers of the poor of said town to for the term of one year.—That he is able of body to maintain himself and is willing so to do.

He therefore makes this application to this Honorable Court to discharge him from said agreeable to the statute of 1793 C. 59, Sec. 6. And as in duty bound will ever pray.

Dated at this day of A. D.

A. B.

FORM 104. [See pages 104 and 105.]

Notice to a Town of a person becoming chargeable.

To the Overseers of the Poor of the town of

Gentlemen—You are hereby notified that A. B. now residing in the town of D. hath become poor and has applied to the Overseers of the said town of D. for relief; and understanding that the legal settlement of the said A. B. is in the town of in the County of You are hereby required to make immediate provision for the support of the said A. B. and remove him to said town of and pay the charges that have already accrued for his support, which amount to $ cts.—We shall continue to charge the expense to your town until he is removed.

Dated at this day of A. D.

Overseers of the Poor of

Note.—Embden vs. Augusta. Mass. Rep. vol. 12.

p. 307. A notice from the overseers of one town to those of another that the *family* of J. S. has become chargeable, was holden to be too general, but the settlement being contested, in the answer and no exception taken therein to the sufficiency of the notice, it was considered as a waiver of the objection.

Westminster vs. Bernardston. Mass. Rep. vol. 8, p. 104. A notice signed by one overseer, by order of the whole, is sufficient within the statute of 1793 C. 59, Sec 12. Such notice not duly objected to, is a bar to the defendant as to the question of the pauper's settlement, although it appears that such pauper had no legal settlement in any town within the Commonwealth.

Mass. Rep. vol. 6, page 501. Notice must be in writing delivered to one of the overseers.—Notice should not be sent by mail.—See Groton vs. Lancaster.

FORM 105. [See page 106.]

Objection in Writing.

To the Overseers of the Poor of the town of

Gentlemen—We hereby inform you that A. B. whom you describe in your letter of is not an inhabitant of this town, and has no legal settlement therein; and that we utterly refuse to contribute any thing towards his support, or to remove him from your town, or to pay charges that have already accrued by his being supported at the expense of the town of

Dated at this day of A. D.

Overseers of the Poor of the town of

FORM 106. [See page 105.]

Complaint to a Justice for the removal of a poor person. (Legal Form.)

To a Justice of the Peace, in and for *the county of*

The town of in the said county, by the subscribers, overseers of their poor, complain and shew, that now resident in said town, is poor, and become chargeable (or is likely to become chargeable) to said town; and that his lawful settlement is in in the county of : Wherefore your complainants pray, that after a due course of proceedings had, the lawful settlement of said may be adjudged to be in said town of , and that he may be removed thither by warrant accordingly. Your complainants further pray judgment for damages, for expenses incurred on account of said an account whereof is annexed, and for such as may accrue until the time of judgment, and for costs.

Dated at said the day of
A. D. 18 . A. B. &c. *Overseers.*

Mass. Rep. vol. 8, p. 246. Walpole vs. West Cambridge. In a complaint, and also in an adjudication for the removal of a pauper it is required to state the cause of the likelihood of his becoming chargeable.

FORM 107. [See pages 104 and 110.]

Complaint to a Justice, and application for the removal of a poor person not belonging to the Commonwealth, to another State, or to a place beyond the sea.

To Esq. Justice of the Peace for the county of

The undersigned overseers of the poor of the town of in behalf of said town, complain, that they have been obliged to provide for the relief and support of one a poor person now residing in said town, who has no lawful settlement within this Commonwealth, but belongs to and that the said still stands in need of relief and will be further expensive to said town. They therefore pray that your Honour would issue a warrant for removing the said to the said according to a law of

this Commonwealth in such cases made and provided.

Dated at this day of A. D.

Overseers of the Poor of the town of

FORM 108. [See page 113.]

Complaint against a person who keeps a house of ill fame.

To Esq. one of the Justices of the Peace for the county of

The undersigned, overseers of the poor of the town of in said county, complains, that they have reason to suspect, and do suspect that of said keeps a house of ill fame, resorted to for the purpose of prostitution and lewdness, against the laws, peace and dignity of this Commonwealth. They therefore pray that a warrant may be issued for apprehending the said that he (*or she*) may be examined and dealt with according to law and justice.

Dated

Overseers of the Poor of

NOTE.—For the good of society and moral order, it is to be regretted that this useful provision of the statute is not more strictly attended to.

FORM 109. [See page 114.]

Request of the Overseers to the Judge to appoint a Guardian to one who is an idiot, non compos, lunatic or a distracted person.

To Esq. Judge of Probate of Wills, &c. in and for the county of

The undersigned overseers of the poor for the town of represent, that G. H. an inhabitant of said

town, and living in the same is [*an idiot, non compos, lunatic, or distracted person*] and is incapable of taking care of himself. They therefore request that inquisition thereof may be made, and a guardian be appointed for said G. H. as the law in such cases directs.

Dated at this day of A. D. 18 .

Overseers of the Poor.

FORM 110. [See pages 93 and 133.]

Commitment to a Work house.

To A. B. one of the Constables of the town of GREETING.

Whereas it appears to us, the subscribers, overseers of the poor of the town of (*or overseers of the work house in the town of*) that C. D. is a person who spends his time and property at public houses to the neglect of his proper business (*or as the case may be*). You are therefore hereby required in the name of the Commonwealth of Massachusetts, to take the said C.D. and him commit to the said work house in the town of and the master thereof is required to receive him into the said house, and him there employ and govern according to the rules and orders of the same until he be discharged by due order of law.

Given under our hands and seals this day of A. D.

B. T. [L. S.]
P. W. [L. S.]
S. M. [L. S.]

TOWN TREASURER.

FORM 111. [See pages 14, 81 and 146.]

Complaint against one who refuses to serve or take the oath of Assessor. (Legal Form.)

To the Justices of the Court of General Sessions of the Peace for the county of to be held at within and for the county aforesaid, on the Tuesday of next. Complains A. B. treasurer of the of that C. D. of [*addition*] on the day of last, was duly and legally chosen by the qualified voters of the said to serve as an assessor thereof, and that the said C. D. was notified to take the oath of that office as the law directs; yet the said C. D. has, for the space of seven days after being notified as aforesaid, neglected and still neglects to take the said oath, whereby he hath forfeited the sum of five pounds for the use of the poor of the said wherefore your complainant prays that a warrant of distress may be issued against the said C. D. for the forfeiture aforesaid, in form and manner as the law directs.

Dated at the day of A. D.

A. B. } *Treasurer.*

NOTE.—And the same form *mutatis mutandis*, may be used in the recovery of any penalty which may be incurred by any person chosen as a town, district, plantation, parish or precinct officer, who shall neglect to take the oath of office as the law directs.

FORM 112. [See pages 89, 90 and 138.]

Warrant against a Constable or Collector who is remiss in his duty.

[L. S.] To the Sheriff of the county of or his deputy GREETING.

Whereas C. D. of B. [*addition*] on the day of *being* a of rates and taxes granted

and agreed on by the in the county of had a list of assessment duly made by the assessors of the aforesaid, amounting to the sum of committed to him with a warrant under their hands and seal directing and empowering him to collect the several sums in the said assessment mentioned, and pay the same to the treasurer of the aforesaid, by the day of ; but the said C. D. hath been remiss in his duty by law required and hath neglected to collect the several sums aforesaid, and pay the same to the treasurer of the aforesaid; and there still remains due thereof the sum of and the said C. D. still neglects to pay the same: You are hereby in the name of the Commonwealth of Massachusetts required forthwith to levy the aforesaid sum of by distress and sale of the estate, real or personal of the said C. D. and pay the same unto the treasurer of the said returning the overplus, if any there be, to the said C. D. and for want of such estate to take the body of the said C. D. and him commit to the gaol of the county aforesaid, there to remain till he has paid the sum of with two shillings for this warrant together with your fees, or that he be otherwise therefrom discharged by order of law, and make return of this warrant to myself or my successor as treasurer of the said within ninety days from this time, with your doings thereon.

Given under my hand and seal, this day of in the year of our Lord one thousand eight hundred and } *Treasurer of*

FORM 113. [See page 138.]

Warrant against a Deputy for neglecting to return a warrant on account of monies of a deficient Constable or Collector.

[L.S.] ss. To either of the Coroners in the county of

Whereas a warrant was issued directed to F. G. Deputy Sheriff of the county of requiring him to levy on the estate of C. D. a deficient Collector of the the amount of and to pay the same to the treasurer of the of and make return of the warrant with his doings thereon. And whereas the said F. G. hath neglected to make return as is by law directed and in the warrant required, and hath also made default in accounting for and paying in the money he has collected and received of said C. D. [*if he has collected any*] by virtue of said warrant. You are hereby in the name of the Commonwealth of Massachusetts, required forthwith to levy the aforesaid sum of by distress and sale of the estate, real or personal of the said F. G. and pay the same unto the treasurer of the said returning the overplus, if any there be, to the said F. G. and also to levy and collect in the same manner as aforesaid, two shillings for this warrant together with your fees, and make return of this warrant to myself or my successor as treasurer of the said within ninety days from this time with your doings thereon.

Given under my hand and seal this day of in the year of our Lord one thousand eight hundred and

} *Treasurer of*

CONSTABLE.

FORM 114. [See page 146.]

Notification for a Town Meeting.

B , A. D. 18 .

By virtue of a warrant from the Selectmen, I hereby notify and warn the inhabitants of the town of

qualified, &c. *(continue as in the words of the warrant and conclude,)*

By order of the Selectmen.

A. B. } *Constable.*

N. B. For the returns, see Forms 40, 43, 45 & 47.

FORM 115. [See page 147.]

Notice to persons drawn as Jurymen.

To You are hereby notified that you have been drawn to serve on the jury at the Court of Common Pleas [*or the Supreme Judicial Court, as the case may be*] to be holden at on the of next [*or instant.*]

You are further notified to attend said court on the second day of its sitting at ten o'clock in the forenoon.

A. B. } *Constable of*

Dated A. D.

FORM 116. [See pages 150 and 158.]

Constable's return of a Writ when directed to take bail.

Essex ss. Salem, Aug. 10, 1824.

By virtue of the within precept I have taken the body of the within named A. B. and he gave bail.

C. D. } *Constable of Salem.*

Fees.—Service		$0,50
Travel 2 miles		8
		,58

FORM 117.

Constable's return on a Writ when it is necessary to leave a Summons only.

Essex ss. Salem, Aug. 10, 1824.

By virtue of this precept I have summoned the

within named A. B. to appear at the time and place within mentioned by giving him a summons in hand [*or by leaving a summons at his last and usual place of abode.*]

C. D. } *Constable of Salem.*

Fees.—Service		$0,30
Travel 2 miles		8
		,38

FORM 118. [See pages 49 and 151.]

Constable's return on a Writ when goods are attached.

Essex ss. Salem, Aug. 10, 1824.

By virtue of this precept, I have attached the goods mentioned in the schedule hereunto annexed, as the property of the within mentioned G. H., I. K. and L. M. to me shown by A. B. attorney to the plaintiff, and at the same time left a summons, at the last and usual place of abode of each of the said G. H. and I. K. I also made diligent search for the said L. M. but could not find him, and he having no tenant, agent, trustee or attorney within this Commonwealth, I left for him a summons with the said G. H.

C. D. } *Constable of Salem.*

Fees.—Service		$0,50
Extra service in removing goods		5,50
Travel 2 miles		8
		6,08

NOTE.—The above may be varied according to circumstances.

FORM 119.

Constable's return on a Writ of scire facias.

Essex ss. Salem, Aug. 10, 1824.

In obedience to this precept I have made known unto the said A. B .as within commanded by leaving him a copy thereof.

A. B. } *Constable of Salem.*

Fees.—Service $0,30
Copy ,12
,42

FORM 120. [See page 154.]

Return on a Warrant.

Essex ss. Salem, Aug. 10, 1824.

By virtue of the within warrant I have apprehended the body of the within named A. B. and have him before E. F. one of the Justices of the Peace for said county, for the purpose within mentioned; I have also summoned the within named G. H. and I. J. and L. M. to appear as witnesses.

C. D. } *Constable of Salem.*

Fees.—

FORM 121. [See page 153.]

Constable's return on a Writ of replevin.

Essex ss. Salem, Aug. 10, 1824.

By virtue of this precept I have replevied the within mentioned and delivered them to the plaintiff, having taken his bond and receipt as hereunto annexed according to law; I have also summoned the within

named A. B. to appear by giving him an attested copy of this writ.

Fees.—Service	$0,50	C. D.	*Constable of Salem.*
Travel 4 miles	,16		
Bond	,25		
Copy	,12		
	$1,03		

FORM 122. [See page 153.]

Receipt to be taken.

Salem, Aug. 10, 1824.

Received of the creatures *(or goods)* named in a writ of replevin, dated wherein is plaintiff and defendant.

A. B.

FORM 123. [See page 153.]

Replevin Bond, to be taken. (The Bond is the same as any other Bond until it comes to the condition.)

The condition of this obligation is such, that whereas the above bounded A. B. on the day of A. D. sued out of the Clerk's office a writ of replevin against the said E. F. in due form of law, returnable to the next Court of Common Pleas to be holden at within and for said County of on the of next.—Now if the above bounded A. B. shall prosecute his said action of replevin to final judgment, and shall pay all such costs and damages as the said E. F. shall recover against him, and shall also return the goods and chattels replevied in like good order and condition as when taken, in case such shall be the final judgment; then this obligation to be void and of no effect, otherwise to remain in full force and virtue.

Signed, sealed and deliveredin in presence of us.

A. B. [L. S.]
C. D. [L. S.]
E. F. [L. S.]

FORM 124. [See page 158.]

Bail Bond.

Know all Men by these presents, That

are holden and stand firmly bound and obliged unto one of the Constables of the town of and county of in the sum of dollars, to be paid unto the said his executors, administrators, or assigns: to the which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly, by these presents. Sealed with our seals. Dated the day of in the year of our Lord one thousand eight hundred and

The condition of the above obligation is such, That whereas the body of the above bounden is, by force of a writ or process, bearing date the day of one thousand eight hundred and taken at the suit of

to answer unto the said in a plea of by commenced to be heard and tried

as by the return of said writ or process will appear: If therefore the above bounden shall appear to answer the said upon the said plea, and shall abide the final judgment thereon, and shall not avoid, then the above written obligation shall be null; otherwise it shall remain in full force and virtue.

Signed, sealed and delivered,
in presence of us.

NOTE. An officer may take one person as security, but it is at his own risk; nor can the defendant punish him for refusing to let him to bail, unless two good and sufficient persons are offered as sureties. See statute 23, Hen. 6 : Cap. 10 : Cro. Eliz. 808.

The officer is liable to an action for false imprisonment, if he imprisons a person when unexceptionable bail is offered. Bonds are usually taken in double the sum laid by the plaintiff as his damage.

See, also, Bean vs. Parker and al.

COLLECTOR OF TAXES.

FORM 125. [See page 162.]

Account of Sales.

Mendon, June 1, 1825.

To Mr. Abel Saunders.

The following is an account of the sale and charges of two cows, taken by me, the subscriber, for your State, County, and Town taxes, committed to me to collect, for the year A. D. 1825.

One cow sold to John Weeks, for	$20,	$45
One do. to Samuel Billings, for	25,	
They being the highest bidders.		

Amount of taxes in the list.

State - -	$10	$33
County - -	5	
Town - -	18	

Charges.	Taking and keeping	$3	$5
	Advertising	1	
	Selling	1	
	Balance due you		$7

Collector.

FORM 126. [See page 163.]

Certificate to be made on the copy of the Warrant when a person is committed for Taxes.

I hereby certify that dollars and cents is the sum which A. B. now committed to prison, is to pay as his proportion of the assessment within mentioned, and I have taken him and committed him to gaol for want of goods or chattels whereof to make distress for the same, the cost of which taking and committing is dollars cents.

Proportion of taxes,
Cost
Total $

} *Collector.*

FORM 127. [See page 165.]

Advertisement of a Tax on the unimproved lands of non resident proprietors, or improved lands of proprietors living out of the Commonwealth.

NOTICE.

The non resident proprietors of land, or lots of land in the town of A. (if the name of the town has been altered within *three years*, say, "in the town lately called B. but now known by the name of A.") in the county of C. and Commonwealth of Massachusetts, are hereby notified that the same are taxed in the lists committed to me, the subscriber, a Collector of the said town for the year A. D. to collect in the respective sums following, viz:

Names.	*Town.*	*Division.*	*Lot.*	*Tax.* dlls. cts.
John Warner		1	4	1 25
of unknown.		3	6	1 20

Names.			*Tax.*
H. Wilson			*dlls. cts.*
of	10 acres	value $400	1 10

And if no person shall appear to discharge said taxes and all necessary intervening charges, on or before the day of next, at o'clock, in the noon; so much of the said lots of land as shall be sufficient to discharge the same, will then be sold at public auction to the highest bidder, according to the law in that case made and provided.

Dated at this day of A. D. 18 .

} *Collector of*

FORM 128. [See page 166.]

Deed of lands mentioned in Form 127.

Know all Men by these presents, That I a Collector of taxes for the town of in the county of and Commonwealth of Massachusetts, for the year one thousand eight hundred and legally chosen and sworn, Send GREETING.

Whereas the assessors of the said town of for the year aforesaid, have assessed the lot of land in said town No. 4, in the first Division, to John Warner of (or lot No. 6, in the third Division, as belonging to some person unknown, or as belonging to now living out of the Commonwealth; or a lot of land in said town, containing 10 acres, value 400 dollars to of) in the list of assessments, they have committed to me to collect in the sum of one dollar and twenty six cents, and whereas no person has appeared to discharge the said tax, although I have advertise

the same in the public newspapers of the printers to the General Court, three weeks successively, and posted the same in a conspicuous place in the town of for the term of three weeks previous to the time appointed for the sale, and also in the towns of being three towns adjoining to the towns of A. Therefore know ye the said L. M. Collector of taxes as aforesaid, in consideration of the sum of to me paid for discharging the said taxes, and necessary intervening charges, by , of in the county of and Commonwealth of (*addition*,) have granted, bargained, and sold, and do hereby grant, bargain and sell, and convey to the said his heirs and assigns forever, the following described real estate, viz:

The same having been struck off to the said after waiting two hours from the time appointed for the sale, he being the highest bidder therefor, at a public auction notified and held at the house of in said on the day of A. D.

To have and to hold the same to the said his heirs and assigns forever, to his and their only purpose, use and behoof forever; subject however, to the said proprietor or proprietors' right of redemption thereof at any time within two years from the time of sale, as aforesaid. And I do covenant with the said his heirs and assigns, that the taxes aforesaid were assessed and published, and notice of the intended sale of the lands given according to law; and in all respects I have observed the directions of the law, whereby I have good right and full power to sell amd convey the premises to the said to hold as aforesaid.

In witness whereof I do hereunto set my hand and seal this day of Anno Domini one thousand eight hundred and

Signed sealed and delivered in presence of } L. M. [L. S.]

FORM 129. See page 167.]

Application to a Justice of the Peace for a Warrant to distrain for Taxes on improved lands of non-residents.

To A. B. Esq. one of the Justices of the Peace for the county of

The application of C. D. a Collector of Taxes, duly chosen and sworn, for the town of in said county, for the year A. D. humbly shews; That the following is a true copy of a list of assessments committed to him to collect for the year A. D. so far as they relate to the several persons and lands hereafter named, and that they are taxed as non resident proprietors of improved lands, viz:

Town, State and County Tax.

		D. C.
E. F. of	200 acres, value $300—Tax	1 30
G. H. of	100 acres, value $200	87
&c.	&c.	&c.

And that there is no stock, corn or hay to be found on said improved lands, whereof he can make distress to satisfy the aforesaid sums; He therefore makes this application, and requests you to grant Warrants to the several Constables of the towns, where the said persons respectively reside, to distrain the said persons or their property agreeable to the statute of this Commonwealth of 1785, C. 70, Sec. 10.

} *Collector.*

Dated at this day of A. D.

FORM 130. [See page 168.]

Warrant on the foregoing application.

[L. S.] ss. To one of the Constables of the town of in said county, GREETING.

Whereas of in said county, a Collector of Rates and Taxes, duly chosen by the inhabitants of said town of for the year one thousand eight hundred and hath made application in writing to me, one of the Justices of the Peace for the county of aforesaid; whereby he hath informed the said Justice that of in the county of is taxed in the list of assessments committed to him to collect for the year one thousand eight hundred and for the tax, the sum of dollars and cents for certain improved lands owned or occupied by the said according to an authenticated copy in my hands, and that there is no stock, corn or hay to be found on said land whereof he may make distress to satisfy the same.

You are therefore hereby required in the name of the Commonwealth of Massachusetts forthwith to distrain the said by his goods or chattels in the full sum of dollars cents, as aforesaid, and pay the same to the said by sale of such goods or chattels with more for this Warrant, and thereof also to satisfy yourself for your own fees, returning the overplus if any there be to the said And for want of goods or chattels sufficient to satisfy the aforesaid sums shewn to you or found within your precinct; We command you to take the body of the said and commit unto our gaol in And we command the keeper thereof accordingly to receive the said into our said gaol, and safely to keep, until pay the full sum above mentioned, with your fees, or that he be otherwise discharged by order of law:

Hereof fail not, and make return of this Warrant, with your doings therein, unto our said Justice, within thirty days next coming.

Witness our said Justice, at the day of in the year of our Lord one thousand eight hundred and

} *Justice of Peace.*

FORM 131. [See pages 35 and 131.]

List to be returned to the Selectmen by the Collector.

To the Selectmen of Southfield,

Gentlemen—The following is the original account (*or a true copy of the original account*) by me kept of all the persons who have paid me, during the year last past, either a State or County Tax on the list of rates committed to me to collect, dated May 12th, A. D. 1824, and of the time of such payment viz:

Names.	*Tax.*	*Time of payment.*
A. B.	County,	July 1, 1824.
C. D.	State,	Aug. 1, 1824.
E. F.	State & County,	Sept. 2, 1824.
&c.	&c.	&c.

Dated Southfield, February 17, 1825.

} *Collector.*

NOTE.—When the State, Town and County Tax are in one list, and the person taxed pays a part, he should express to the Collector whether he pays it as his proportion of the State or County Tax, and the Collector will account it accordingly.

SURVEYOR OF HIGHWAYS.

FORM 132. [See page 187.]

Notice to a person of his Highway Rate.

To

Sir—You are hereby notified that you are assessed in the Highway Rate Bill committed to me by the Assessors of the town of the sum of ; and I have appointed the day of for providing materials, and laboring upon the highways within my limits. We shall first assemble at

Dated at the day of A. D.

A. B. } *Surveyor.*

FORM 133. [See page 189.]

Assignment of labor &c. for repairing Highways when towns neglect to raise money for that purpose.

The town of having neglected to vote or agree upon a sum to be assessed for the express purpose of repairing and amending the highways and town ways in said town the present year, and have not otherwise provided for effectually amending and repairing such ways, I therefore, being a Surveyor of Highways for said town, do hereby assign to the several persons within the limits appointed to me by the Selectmen of said town, their ratable proportion of day's works and of cart, team, and plough, according to his real and personal property as follows, viz :

Names.	*Man.*	*Cart.*	*Oxen.*	*Plough.*
A. B.	1	1	1	1
C. D.	1	1	1	1
E. F.	1	1	1	1
G. H.	1	1	1	1

Given under my hand at this day of A. D.

} E. F. Surveyor of Highways.

FORM 134. [See page 190.]

Surveyor's Complaint against one who refuses to work according to Form 133. *(Legal Form.)*

To A. B. one of the Justices of the Peace for the county of S.

Complains C. D. of R. in the same county [*addition*] and one of the Surveyors of Highways in the said town of R. for the year duly appointed and sworn, that P. D. of R. aforesaid [*addition*] a person by law liable to work on the highways (or S. D, a son or servant, or ward, as the case may be) within the limits assigned the complainant, in the same town, was assessed days (or with his cart, team, &c. as the case may be) and was duly notified to attend, and work out the same on the day or days of yet the said P. D. did not appear and work in person, nor did he send a sufficient substitute in his stead, but made default therein, whereby he hath forfeited, and ought to pay to the complainant the sum of one moiety to the use of the said town of R. to be expended on the highways and town ways therein, as the Selectmen thereof shall direct, and the other moiety to the use of the complainant; wherefore he prays that the said P. D. may be cited to appear at a short day, to shew cause (if any he has) wherefore a warrant of distress ought not to issue, to levy the said forfeitures upon the goods and estate of the said P. D. and in want thereof, on his body, with reasonable costs, &c. C. D.

FORM 135. [See page 190.]

Notice to a person to work out Highway Rate, as in Form 133.

To

Sir—The town of having neglected or agreed upon a sum to be assessed for the purpose of repairing and amending the highways and town ways in said town the present year, and have not otherwise

provided effectually for mending and repairing such ways; I have agreeable to the law in such cases, assigned to the several persons in my limits their ratable proportion of day's work, and of team, cart and plough of which your proportion is, of man 1 day's work, cart 1 day's work, pair of oxen 2 day's work, plough 1 day's work. I have assigned *(here insert the time and place)* for amending and repairing said ways, and hereby notify you to attend that service with *(here insert the tools if wanted.)*

Given under my hand at the day of A. D.

} *Surveyor of Highways.*

FIELD DRIVER.

FORM 136. [See page 195 and 204.]

Notice to be given when the owner is known and the creatures are taken up damage feasant.

Richmond, August 12, 1825.

Mr. Samuel Stiles,

This is to give you notice that I have this day impounded in the town pound of Richmond, whereof George Adams is pound keeper, one red cow belonging to you, which I found doing damage in inclosure, and for that cause impounded the same.

A. B.

FORM 137. [See page 195 and 204.]

If not taken damage feasant, say, "which I found running at large out of your inclosure, and for that cause impounded the same."

FORM 138. [See page 196 and 204.]

When the owner is unknown, in either case begin after the date, "Public notice is hereby given that &c."

FORM 139. [See page 201.]

Notice to be left with the Town Clerk, and to be posted, of a Ram or He Goat taken up when the owner is unknown.

Notice is hereby given, that I have taken up and secured, *(here insert the creatures, with the color and marks, natural and artificial, if such there be,)* which I found going at large; their owner to me is unknown.

A. B.

FORM 140. [See page 195 and 206.]

Memorandum to be left with the Pound Keeper when creatures are impounded damage feasant.

Danvers, August 12, 1825.

The following is a memorandum of creatures committed to the care of keeper of the town pound in said Danvers, viz: *(here describe the creatures,)* the aforesaid creatures are impounded for doing damage in the inclosure of the sum demanded of the owner of the cattle in

Damages are	$5 00
Fees for impounding 50 cts. each,	2 00
Advertising	75
	$7 75

} *Field Driver.*

FORM 141. [See page 195 and 206.]

Memorandum when creatures are taken up for running at large.

After describing the cattle, say "the aforesaid creatures are imponnded *for running at large* in said town.

Fees for impounding, 50 cts. each, $2 00
Advertising 75

} *Field Driver.*

HOG REEVE.

FORM 142. [See page 204.]

Application to the Town Clerk for a precept to sell swine impounded, when the owner is known.*

To Town Clerk of C.

A. B. of C. informs the said Clerk, that on the day of he found a swine *(here insert the marks, natural and artificial, if any, and such a description of the size and age as can be conveniently done,)* owned by E. F. of C. going at large in said town of C. whereby the said E. F. has forfeited the sum of one shilling, for the recovery of which he impounded the said swine, and within twenty four hours then next following, gave him notice thereof in writing, (or left a notification thereof at his dwelling house,) and although three full days have elapsed since the impounding, yet he has not paid the said forfeiture and charges, nor has he replevied the said swine.—Wherefore your informant prays that you would issue a precept for selling the said swine in manner and form as the law directs.

Dated A. D.

A. B.

*For the Precept see Form 24.

FORM 143. [See page 204.]

OATH.

Essex ss. Personally appeared A. B. above named and made solemn oath, that the above information by him subscribed is true.

Before me, { *Town Clerk.*

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*FORM 144. [See page 205.]

**When the owner is unknown.*

To Town Clerk of C.

A. B. of C. informs the said Clerk that on the day of he found a swine, *(here insert the marks as before)* belonging to some person unknown, and at the time of impounding, going at large in said town of C. whereby the owner hath forfeited the sum of one shilling, for the recovery of which he impounded the said swine, and within twenty four hours then next following, caused notifications of the time, place, and cause of impounding, to be posted up agreeably to the direction of the law in such cases; and although three full days have elapsed since the impounding, no person hath appeared to pay the said forfeiture and charges, nor replevied the said swine; wherefore your informant requests you to issue a precept for selling the said swine as the law directs.

Dated A. D. 18 .

A. B.

N. B. This must be sworn to as above.

* For the Precept see Form 25.

FENCE VIEWER.

FORM 145. [See page 208.]

Application to a Fence Viewer to determine the sufficiency of a fence which another person is obliged to maintain.

To A. B. & C. D. two of the Fence Viewers of the town of

Gentlemen—This is to request you as soon as may be, to view and survey a fence between my land and land owned or occupied by of said fence which of right belongs to him to maintain, (or rebuild as the case may be) and if adjudged by you to be insufficient, to direct him to rebuild or repair the same within six days from the time you give him notice.

Dated

A.B.

FORM 146. [See page 208.]

Notice to a party whose Fence is insufficient.

To

Sir—Having at the request of viewed the partition fence between his inclosure and yours, at (or from to) which he says of right you ought to maintain, we find the same to be insufficient; we, therefore, hereby direct you to repair (or rebuild) the same within six days from the date, (or within six days from the time you receive the notice, if it is inconvenient to give the notice the same day.)

Given under our hands at this day of A. D. 18 .

A. B. } *Fence*
C. D. } *Viewers.*

FORM 147. [See page 208.]

Notice of Fence Viewers on application of a party when the right of occupants in partition fences is in dispute.

Sir—G. H. has represented to us two of the Fence Viewers of the town of that a dispute has arisen between him and you respecting your several rights in the partition fence between your land and his (or the land occupied by him and you) at and has made application to us on that account; we, therefore, notify you that we shall be at on the day of at o'clock noon, to assign to each party their share of said fence, when and where you will attend if you see cause.

Dated at

A. B. } *Fence*
C. D. } *Viewers.*

FORM 148. [See page 209.]

Assignment of each party's share of a partition fence.

Whereas a dispute has arisen between A. B. of and C. D. of about their respective rights, in a partition fence, in the lines between their lands at (or from to ,) we, the subscribers, Fence Viewers of the town of having on the application of the said A. B. (and after having given due notice to such party to attend) viewed the premises and duly considered the matter, have assigned, and do hereby assign, to each of the said parties their share of said fence as follows, viz:

The said A. B. shall build and keep in repair a good and sufficient lawful fence from to and the said E. D. shall build and keep in repair a good and sufficient lawful fence on the other part of

said line, viz: from to

Given under our hands at said this day of A. D.

} *Fence Viewers.*

FORM 149. [See page 210.]

Appraisement of the value of a partition fence.

We, the subscribers, Fence Viewers of the town of having been requested by to appraise his part of a partition fence between his land at which has been under improvement, but which he now chooses to lay in common, and land of ; having viewed the same, do determine the value of the same to be

Dated at this day of A. D.

} *Fence Viewers.*

N. B. See Form 152.

FORM 150. [See page 211.]

Notice of Fence Viewers to a person on the application of another with whom he had improved in common, and is desirous to improve in severalty.

To of

Sir—A. B. of was represented to us, the subscribers, Fence Viewers of the town of that he is desirous of having a partition fence between his land at and yours which you have hitherto improved in common, and to improve his part in severalty, and that you have refused, or neglected, to divide the line where such fence ought to be built, and hath therefore requested us to divide and assign the same. This is to give you notice that we shall attend that service at on the day of at o'clock in the

noon, where and when you may be present if you see cause.

Dated at this day of A. D.

} *Fence Viewers.*

FORM 151. [See page 211.]

Fence Viewer's assignment of a division fence between two persons who had before improved their lands in common.

Whereas A. B. of has represented to us, the subscribers, two of the Fence Viewers of the town of that he is desirous of improving in severalty a certain piece or parcel of land [*here describe the same*] which he hath hitherto improved in common with and to place a partition fence between them, and that said hath refused (or neglected) to divide the line where the fence ought to be built, and has therefore requested us to divide the same, and to assign to each party his share thereof agreeable to law:

We, therefore, having given due notice to each party, have divided and assigned the said line as follows, viz: The said A. B. shall build and maintain a good and sufficient fence on the line running from to And the said shall build and maintain a good and sufficient fence on the other part of said line, viz: from to And we hereby assign the term of from the date hereof, for making up said fence, whereof the parties aforesaid are to take notice.

Given under our hands this day of A. D.

} *Fence Viewers.*

FORM 152. [See page 209.]

Application of Fence Viewers by a person owning land, which had been improved in common with another, for a division of the same.

A. B. and C. D. two of the Fence Viewers of the town of

Gentlemen—I am desirous of having a partition fence between my land and that of (or now occupied by) which we have hitherto improved in common—and to improve my part in severalty; he has refused (or neglected) to divide the line where the fence ought to be built, (or to build a sufficient fence on his part of the line *if divided*,) I therefore request you to divide the same as soon as may be and assign to each party his share thereof agreeable to law.

Dated at this day of A. D. 18 .

A. B.

N. B. See Form 149.

FORM 153. [See page 211.]

Notice of Fence Viewers on application of a party whose land is divided from another's by a river, pond, brook or creek.

To of

Sir—A. B. of has represented to us, the subscribers, two of the Fence Viewers of the town of that you refuse (or neglect as the case may be) to join with him in making a partition fence (or cannot agree in making a partition fence) between your land and his at the same being bounded or divided by a brook (or, as the case may be) and has therefore made application to us to view the same and determine thereupon; we therefore hereby give you notice, that we shall attend that service at said place on the day of at

o'clock noon, at which time we shall determine where said partition fence shall stand, and assign to each one his share of the same. You will please to attend if you see cause.

Dated at this day of A. D.

} *Fence Viewers of said town.*

FORM 154. [See page 211.]

Determination of Fence Viewers where lands are divided by a brook, river, pond or creek.

It having been represented to us, two of the fence viewers of the town of by A. B. of whose land is bounded or divided from the land of of (or occupied by of) by a *brook*, that the said has refused (or neglected) to join with him, (or that they could not agree in making a partition fence as the case may be) and the said A. B. having applied to us to view the same and determine therefor; we have after giving due notice to each party, attended that service, and do determine that the said *brook* does answer the purpose of a sufficient fence (or if in their opinion, otherwise,) say "does not answer the purpose of a sufficient fence, and that it is impracticable to fence at the true boundary line; we therefore further determine that the said fence shall be set up as follows, viz: And that the said A. B. shall build and maintain (such a part) and the said (such a part)

Given under our hands this day of A. D.

} *Fence Viewers of*

SEALER OF WEIGHTS AND MEASURES.

FORM 155. [See page 214.]

Notification to be Posted.

The subscriber being appointed a Sealer of Weights and Measures, within and for the town of the ensuing year, and duly qualified as such, hereby notifies the inhabitants of said town that he shall attend at on the day of A. D. for the purpose of sealing all such of their great and small beams, weights and measures, as they shall bring in for that purpose.

Dated at this day of A. D.

} *Sealer.*

N. B. Form of appointment, see Form 78.

MEASURER OF WOOD AND BARK.

FORM 156. [See page 217.]

Ticket.

Measured a load of wood (or bark,) driven by of Contents feet

A. B. } *Measurer.*

N. B. Form of appointment, see Form 79.

AUCTIONEER.

FORM 157. [See page 224.]

Application for Appointment.

To the Selectmen of the town of

Gentlemen—The undersigned hereby makes application to you, and requests to be licensed as an Auctioneer to sell goods and chattels at public vendue and outcry, and is ready to give bonds to your satisfaction as is by law provided.

Dated

A. B.

For the Form of appointment, see Form 80.

ENGINEMEN.*

FORM 158. [See page 231.]

Certificate from the Selectmen.

B , A. D. 18 .

To Capt. . We, the subscribers, Selectmen of hereby certify that the following persons who reside within the bounds of your company, have been legally appointed and are bound to perform the duties of Enginemen—viz, A. B., C. D., E. F. &c. &c.

Signed { *Selectmen of*

* *For the appointment of Enginemen, see Form* 81.

TOWN ACCOUNTS.

FORM 159.

A systematic and complete plan for keeping Town Accounts was politely furnished the author, by a gentleman of Franklin County, from whom the public may soon expect a new and complete system of *Book Keeping*;—the capability of this gentleman for such an undertaking is not surpassed by any person perhaps in the United States. I have only to regret that want of room prevents my inserting his *whole* system of Town Accounts.*—What follows is from his pen:

After every annual, or other meeting, at which any money shall be granted, the Town Clerk should make out three lists of the sums voted, expressing the particular purpose for which they are to be applied; and deliver one to the Selectmen, one to the Town Treasurer, and the other to the Assessors. The Selectmen and Town Treasurer will then charge the town with the several sums voted to be raised, and in addition thereto, the Selectmen will charge the amount of the State and County Taxes. [See Ledger page.]

When the moneys granted, shall be assessed, the Assessors should certify to the Selectmen, and the Town Treasurer, the amount of the several Tax Bills committed to the Collector, together with any additions or abatements that may have been made therein, and the time of payment to the Town Treasurer; and also of the State and County Taxes. The Selectmen and Town Treasurer will then *credit* the town, on their respective books, with the amount of the assessments, and charge the overlays, which will balance that account. [See Ledger page.]

The Collector is to be charged with the assessments, [See Journal page] together with all the additions

* Selectmen and Treasurers can have the whole in a pamphlet, er the actual cost, on application to the author.

then or thereafter made, and is accountable to the town for the whole amount. [See Ledger, page.]

The amount of the assessments, [See Journal page] are then to be posted in the Ledger, to the credit of the several accounts to which they belong. [See Ledger page .]

Page shows the amount of assessments committed to the Collector, for the payment of the State and County Taxes.

Page (credit side) shows the amount of money assessed for support of poor, and contingent expenses, which is all denominated "Town Expenses," and to this account is credited all monies that come into the Treasury by way of fines, rents, &c. not otherwise appropriated. These make up a sum total, against which, orders are drawn by the Selectmen, on the Treasurer, for support of poor, town services and other contingent expenses.

Page (credit side) contains the amount of assessments for support of Schools, and the Debtor side the amount of orders drawn for expenditures. If the school money is divided, and each district has its proportion assigned, to be applied by a district committee, (as is sometimes the case) it would be proper to open separate accounts for each district.

The Credit side of Page contains the amount of money assessed for support of public worship, and the amount of money paid into the Treasury by Militia conditional exempts. And the Debtor side, the several orders, drawn by the Selectmen for expenditures, are posted.

When money is paid by the Collector to the State, County or Town Treasurers, Duplicate Receipts should be given; one of which should be kept by the Collector, and the other delivered to the Selectmen, and after entering the amount on their book, to the credit of the Collector, and debtor of the Treasurer, should be filed in their office. No credit should be

given to the Collector till such Receipts are produced by him, nor should any credit be given to the Treasurer, for orders drawn on him, until such orders be produced, and it appears by a Receipt thereon, that they are paid.

This plan proposes, that the Selectmen should settle the Treasurer's accounts, and Collector's Bills, previous to the annual meeting, in order to enable them to exhibit a true state of the accounts to the town, and a proper view of their resources. And previous to the voting of any monies it is proper that an estimate of the sums proposed to be raised should be laid before the town.

All accounts against the town for services, &c. &c. should be exhibited to the Selectmen, or Auditors chosen for that purpose, and by them examined and corrected, if necessary, previous to the annual meeting, and the same laid before the town for their acceptance.

NOTE. Then follows the Selectmen's Journal, with references to the pages of the Ledger.

The Selectmen's Ledger then follows, under distinct and appropriate heads, with references to the pages of the Journal, and concludes with the *Balance*, *Account*, and *Report* of the Selectmen, thus:

Dr. BALANCE ACCOUNT. *Cr.*

Page			Page		
2	*Commonwealth	$183,50	1	J. Willman (*Collector*) Balance due from him - - -	407,15
3	Town Expenses	242,95			
4	School Expenses	245,34	6	T. Brown (*Treasurer*) Balance due from him - - -	661,15
5	Public Worship	30,94			
5	Militia	24,00			
		$726,73			
	Outstanding Orders	341,57			
		$1068,30			$1068,30

* By this plan, the accounts for one year are closed, and new ones are to be opened for the next.—The above *Balances* constitute the first item of *Debt* or *Credit*, in the new accounts, in their proper places

Report of the Selectmen to the Town.

The subscribers, Selectmen of the town of , having examined and balanced the town accounts, respectfully submit the following Report:

DUE TO THE TOWN.

From J. W. Collector - - - -	$407,15
" J. B. Treasurer - - - -	661,15
	$1068,30

DUE FROM THE TOWN.

To the Commonwealth (or State)	$183,50	
" School appropriation	245,34	
" Public Worship appropriation	30,94	
" Militia . - - -	24,00	
" Outstanding Orders unpaid	341,57	825,35
Balance in favor of the town, unappropriated		$242,95

A. B.
C. D. } *Selectmen.*
E. F.

April 1824.

Treasurer's Accounts.

The plan of the Treasurer's Journal and Ledger, (but which I have not room to insert,) is on the same principle, and concludes thus:

N. B. 1st. The Treasurer will charge the Town with all monies voted to be raised.

2d. When the monies voted, are assessed and committed to the Collector, the Treasurer will then charge the amount of the assessments to the assessments to the Collector, and credit the town with the same.

3d. Payments made to the Treasurer by the Collector, are to be charged to the Treasurer himself, and credited to the Collector, and Duplicate Receipts given.

The Treasurer should close his accounts, and exhibit the same to the Selectmen, immediately before the annual meeting, and then take credit for the amount of Town orders paid by him. And all such orders should be discharged, by some note upon the back thereof, and then filed in the Treasurer's office. And the account of such orders, when settled, should be checked on the Selectmen's Book, in order to ascertain what orders have been paid, and what remains unpaid.

The Treasurer may keep an account of the Selectmen's orders, paid by him, in the Journal, or some other book procured for the purpose.

TABLE.

FORM 160.

This Table is introduced for the following purposes, viz:

The first and second columns are useful to Selectmen in determining to which town it belongs to notify, in the perambulation of town lines. [See page 49.]—They will sometimes, also, determine whether a town is entitled to send a Representative. [See page 40.] The towns marked with asterisks are post towns, and the number of asterisks show the number of Post Offices in each town.

The third column is useful to Parish Assessors, and others, in determining the amount to be set on the polls. [See Form 94.] It also determines the number of Representatives each town is entitled to send. [See page 40.] The valuation was taken by order of the General Court in 1822.

NOTE. The Constitution of Massachusetts went into operation October 25, 1780.

SUFFOLK.

[Inc. 1643.—Sends 6 Senators to General Court.]

Towns.	*Incorporated*	*Ratable Polls.*	*Reps. entitled to.*	*Census of 1820.*	*Dist. from Boston.*
†Boston*	1630 Sep. 7.	9,480	42	43,298	
Chelsea	1738 Jan. 10.	143	1	642	2
2		9,623	43	43,940	

ESSEX.

[Inc. 1643.—Sends 6 Senators to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820.	D. f. B.
Salem*	1629 June 24	2,800	12	12,731	15
Ipswich*	1634 Aug. 5	561	2	2,553	27
Newbury	1635 May 6	807	3	3,671	32
Lynn*	1637 Nov.	1,229	5	3,299	9
Gloucester**	1639 May 22	1,514	7	6,384	30
Rowley**	1639 Sept. 4	460	2	1,825	28
Salisbury*	1640 Oct. 7	500	2	2,006	40
Wenham*	1643 May 10	126	1	572	21
Manchester*	1645 May 14	291	1	1,201	23
Haverhill*	1645	695	3	3,070	30
Andover*	1646 May 6	855	4	3,889	20
Marblehead*	1649 May 2	1,325	6	5,630	16
Topsfield*	1650 Oct. 18	196	1	866	21
Amesbury*	1668 Ap'l 29	430	2	1,956	40
Beverly*	1668 Oct. 14	1,003	4	4,283	17
Bradford**	1675	412	2	1,600	28
Boxford*	1685 Aug. 12	214	1	906	25
Methuen*	1725 Dec. 8	344	1	1,371	30
Middleton	1728 June 20	150	1	596	25
Danvers	1757 June 16	889	4	3,646	18
Newburyport*	1764 Jan. 28	1,507	7	6,852	38
Lynnfield D.	1782 July 3	187	0	596	12
Hamilton*	1793 June 21	182	1	802	23
Saugus	1815 Feb. 17	163	1		6
Essex*	1819 Feb. 15	258	1	1,107	32
W. Newbury*	1819 Feb. 18	342	1	1,279	30
26		17,390	75	74,580	

†Incorporated a city February 3, 1822.

MIDDLESEX.

[Inc. 1643.—Sends 5 Senators to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820.	D.f.B.
Charlestown*	1629 June 24	1,312	6	6,591	1-2
Watertown*	1630 Sept. 7	381	2	1,518	7
Medford*	1630 Sept. 28	324	2	1,474	4
Cambridge*	1633 Sept. 8	746	8	3,295	3½
Concord*	1635 Sept. 2	411	2	1,788	18
Sudbury*	1639 Sept. 4	312	1	1,417	25
Woburn*	1642 May 18	403	2	1,519	10
Reading**	1644 May 29	425	2	2,797	14
Malden*	1649 May 2	467	2	1,731	4
Chelmsford**	1655 May 29	402	2	1,535	26
Billerica*	1655 May 29	317	1	1,380	20
Groton*	1655 May 29	435	2	1,897	35
Marlboro'*	1660 May 31	454	2	1,952	28
Dunstable	1673 Oct. 15	152	1	584	37
Sherburne*	1674 May 27	196	1	811	22
†Stow*	1683 May 16	235	1	†	25
Newton*	1691 Dec. 15	491	2	1,850	9
Framingham*	1700 June 25	472	2	2,037	24
Dracut*	1701 Feb. 26	344	1	1,407	30
Weston*	1712 Jan. 1	283	1	1,041	15
Lexington*	1712 Mar. 20	264	1	1,200	10
Littleton*	1715 Dec. 3	244	1	955	28
Hopkinton*	1715 Dec. 13	375	2	1,655	32
Holliston*	1724 Dec. 3	282	1	1,042	27
Stoneham	1725 Dec. 17	176	1	615	10
Westford*	1729 Sept. 23	309	1	1,409	28
Bedford	1729 Sept. 23	178	1	648	13
Wilmington	1730 Sept. 25	192	1	786	16
Townsend*	1732 June 29	362	1	1,482	45
Tewksbury*	1734 Dec. 23	221	1	1,008	24
Acton*	1735 July 3	254	1	1,047	24
Waltham*	1737 Jan. 4	443	2	1,677	11
Shirley*	1753 Jan. 5	207	1	922	41
Pepperell*	1753 April	348	1	1,439	40
*Lincoln**	1754 Apr. 19	164	1	706	16
*Ashby**	1767 Mar. 6	308	1	1,188	50
*E. Sudbury**	1780 Apr. 10	231	1	962	19

†*Unites with* Boxboro', and both contain 1495 inhabitants.

Towns.	Incorporated	Rat. Polls.	Reps.	Cen. 1820	D.f.B
Natick*	1781 Feb. 19	204	1	849	18
Boxboro' D.	1783 Feb. 25	110	0	†	30
Tyngsboro'*	1789 June 22	215	1	808	31
Burlington*	1799 Feb. 24	130	0	508	10
Carlisle	1805 Feb. 18	159	1	681	20
Brighton*	1807 Feb. 24	202	1	702	5
W. C'mbr'ge*	1807 Feb. 27	289	1	1,064	4
S. Reading*	1812 Feb. 25	293	1		10
45		14,722	41	61,677	

HAMPSHIRE.

[Inc. 1662.—Sends 2 Senators to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820.	D.f.B.
Northampton*	1654 Oct. 18	691	3	2,854	95
Hadley*	1661 May 22	831	1	1,461	90
Hatfield*	1670 May 11	214	1	823	95
Pelham*	1742 Jan. 15	289	1	1,278	85
S. Hampton*	1753 Jan. 5	280	1	1,160	100
S. Hadley**	1753 Apr. 12	253	1	1,047	90
Greenwich**	1754 Apr. 20	185	1	778	75
Amherst*	1759 Feb. 13	460	2	1,917	91
Belchertown*	1761 June 30	561	2	2,426	80
Ware*	1761 Nov. 25	267	1	1,154	70
Chesterfield*	1762 June 11	318	1	1,447	105
Granby*	1768 June 11	243	1	1,066	90
Worthington*	1768 June 30	282	1	1,276	110
Williamsb'rg*	1771 Apr. 24	265	1	1,087	100
Norwich*	1773 June 29	186	1	849	105
Cummington*	1779 June 23	263	1	1,060	110
W. Hampton	1779 Sept. 29	187	1	896	100
Goshen*	1781 May 14	162	1	632	105
Middlefield*	1783 Mar. 12	170	1	755	110
Plainfield*	1807 June 15	228	1	936	110
E. Hampton*	1809 June 16	156	1	712	90
Enfield*	1816 Feb. 15	199	1	873	78
Prescott*	1822 Jan. 28				81
23		6,190	26	26,478	

†*Unites with Stow.*

PLYMOUTH.

[Inc. 1685.—Sends 2 Senators to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820	D.f.B.
Plymouth*	1620 Dec. 11	956	4	4,384	36
Hingham*	1635 Sept. 2	652	3	2,855	14
Scituate*	1636 Oct. 5	717	3	3,505	17
Duxbury*	1637 June 7	539	2	2,403	27
Marshfield**	1640 March 2	401	2	1,532	30
Hull	1644 May 29	28	1	172	9
Bridgwater**	1656 June 3	1,314	6	5,670	24
Middleboro'**	1660 June	1,152	5	4,687	34
Rochester**	1686 June 4	780	3	3,034	48
Plympton**	1707 June 4	255	1	930	32
Pembroke*	1711 Mar. 21	303	1	1,297	23
Abington*	1712 June 10	422	2	1,920	17
Kingston*	1726 June 16	342	1	1,313	32
Hanover*	1727 June 14	266	1	1,211	22
Halifax*	1734 July 4	188	1	749	32
Wareham*	1739 July 10	216	1	952	54
Carver*	1790 June 9	231	1	839	38
Hanson*	1820	220	1	917	24
N. B'dgwater*	1821 June 15				20
W. B'dgwater*	1822 Feb. 16				24
E. B'dgwater*	1823				20
21		8,982	39	38,112	

BRISTOL.

[Inc. 1685.—With Dukes' County sends 3 Senators to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820	D.f.B.
Taunton*	1639 Sept. 3	1,060	5	4,520	34
Rehoboth*	1645 June 4	603	3	2,740	37
Dartmouth*	1664 June 8	800	3	3,636	62
Swanzey*	1667 Oct. 30	425	2	1,933	47
Freetown**	1183 July	441	2	1,863	40
Attleborough*	1694 Oct. 19	672	3	3,055	28
Norton*	1711 June 12	369	2	1,600	35
Dighton*	1712 May 30	161	1	653	38
Easton**	1727 Dec. 21	397	2	1,803	22

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820	D f.B.
ham*	1731 April 2	236	1	1,071	32
ley*	1735 April 18	233	1	1,060	35
field*	1770 April 26	269	1	1,222	30
Bedford*	1787 Feb. 23	868	4	3,947	52
port*	1787 July 2	621	3	2,633	60
rset*	1790 Feb. 20	245	1	1,116	42
**	1803 Feb. 26	350	1	1,594	48
aven*	1812 Feb. 22	607	3	2,733	48
onk*	1812 Feb. 26	610	3	2,775	38
ngton*	1814 June 9	236	1	954	38
9		9,203	42	39,198	

BARNSTABLE.

c. 1685.—Sends 1 Senator to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820	D.f.B.
table****	1639 Sept. 3	901	4	3,824	66
vich***	1639 Sept. 3	616	3	2,884	54
outh***	1639 Sept. 3	493	2	2,232	70
am*	1646 June 2	173	1	766	89
outh**	1686 June 4	568	2	2,370	72
ich*	1694 Sept. 14	402	2	1,980	79
*	1709 July 16	286	1	1,241	107
iam*	1712 June 11	406	2	1,630	85
ncetown*	1727 June 14	418	2	1,252	116
ipee Pl.	1763 June 14		0	150	65
leet*	1763 June 16	344	1	1,472	97
s**	1793 June 19	439	2	1,997	76
ns*	1797 March 3	359	1	1,348	85
ster*	1803 Feb. 19	327	1	1,285	88
13		5,732	24	24,029	

DUKES' COUNTY.

1695.—Sends 3 Senators with Bristol to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820	D.f.B
rtown*	1671 July 8	319	1	1,374	87
ry*	1671 July 8	309	1	1,223	85
ark*	1714 Oct. 30	189	1	695	90
3		817	3	3,295	

NANTUCKET.

[Inc. 1695.—Sends 1 Senator to General Court.]

Town.	Incorporated.	Rat Polls.	Reps.	Cen. 1820.	D.f.B.
Nantucket*	1687 June 27	2,040	9	7,266	100

WORCESTER.

[Inc. 1631.—Sends 5 Senators to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820.	D.f.B.
Lancaster*	1653 May 18	438	2	1,862	35
Mendon**	1667 May 15	494	2	2,254	37
Worcester*	1684 Oct. 15	753	3	2,962	45
Oxford*	1713	338	1	1,562	54
Leicester**	1713 Feb. 15	293	1	1,252	54
Rutland*	1713 Feb. 23	307	1	1,262	56
Sutton*	1715 June 21	452	2	2,056	46
Westboro'*	1717 Nov. 18	297	1	1,326	34
Brookfield*	1718 Nov. 12	537	2	2,292	64
Uxbridge*	1724 June 27	429	2	1,551	41
Southboro'*	1727 July 6	254	1	1,030	30
Shrewsbury*	1727 Dec. 19	388	2	1,458	40
Lunenburgh*	1728 Aug. 1	278	1	1,209	45
Dudley*	1731 Feb. 2	405	2	1,615	55
Harvard*	1732 June 29	†374	1	1,597	35
Grafton*	1735 April 18	365	1	1,154	40
Upton*	1735 June 14	247	1	1,088	38
Hardwich*	1738 Jan. 10	403	2	1,836	70
Bolton*	1738 June 24	292	1	1,229	33
Sturbridge*	1738 June 24	400	2	1,633	70
Holden*	1740 Jan. 9	333	1	1,402	51
Leominster*	1740 June 23	444	2	1,790	46
Western*	1741 Jan. 16	283	1	1,112	73
Douglas*	1746	286	1	1,375	47
N. Braintree**	1751 Jan. 31	203	1	888	66
Spencer*	1753 April 3	377	2	1,548	58
Petersham*	1754 April 20	394	2	1,626	66
Charlton*	1754 Nov. 2	499	2	1,134	60

† One poll more returned by the Assessors of 1822 would have entitled them to two Representatives.

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820	D.f.B.
Templeton*	1762 March 6	332	1	1,331	60
Athol*	1762 March 6	303	1	1,211	72
Oakham*	1762 June 7	229	1	986	62
Fitchburgh*	1764 Feb. 3	393	2	1,736	42
Winchendon*	1764 June 14	322	1	1,263	60
Paxton*	1765 Feb. 12	155	1	613	55
Royalston*	1765 Feb. 16	362	1	1,424	70
Ashburnham*	1765 Feb. 22	288	1	1,230	55
Northboro'*	1766 Jan. 24	269	1	1,018	36
Hubbardston*	1767 June 13	334	1	1,367	60
Westminster*	1770 April 26	421	2	1,634	54
Princeton*	1771 April 24	309	1	1,261	52
Northbridge*	1772 July 14	199	1	905	45
Barre*	1774 July 14	540	2	2,077	66
Ward	1778 April 10	124	1	608	55
Milford**	1780 April 11	276	1	1,160	34
Sterling*	1781 April 25	455	2	1,710	46
Berlin*	1784 Mar. 16	184	1	625	33
Gardner	1785 June 27	208	1	911	58
Boylston	1786 Mar. 1	205	1	902	45
Phillipston*	1786 Oct. 20	244	1	916	66
Dana*	1801 Feb. 18	154	1	664	75
W. Boylston*	1808 Jan. 30	219	1	886	45
N. Brookfield	1812 Feb. 28	268	1	1,095	60
Millbury*	1813 June 11	249	1	926	46
Southbridge	1816 Feb. 15	247	1	1,066	65
54		17,852	58	73,605	

BERKSHIRE.

[Inc. 1761.—Sends 2 Senators to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820.	D.f.B
Sheffield*	1733 June 22	544	2	2,476	125
Stockbridge*	1739 June 22	328	1	1,377	130
N. Marlboro'*	1759 June 15	430	1	1,668	118
Egremont*	1760 Feb. 13	209	1	865	130
Pittsfield*	1761 April 21	697	3	2,768	125
G. Barrington*	1761 June 30	438	2	1,908	125

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820	D.S.B
Sandisfield*	1762 March 6	410	2	1,646	112
Tyringham	1762 March 6	317	1	1,443	116
Lanesboro'*	1765 June 20	306	1	1,319	125
Williamstown*	1765 June 20	425	2	2,010	130
Becket*	1765 June 20	222	1	984	110
Richmond*	1765 June 21	220	1	923	130
Lenox*	1767 Feb. 26	342	1	1,315	125
Windsor	1771 July 2	268	1	1,085	120
Peru*	1771 July 4	164	1	748	118
Alford	1773 Feb. 16	141	1	570	125
Otis*	1773 Feb. 24	247	1	981	116
WSt'ckbridge*	1774 Feb. 23	290	1	1,034	130
Hancock**	1776 July 2	256	1	1,165	130
Washington	1777 April 12	165	2	750	120
Lee*	1777 Oct. 21	387	2	1,384	120
Adams**	1778 Oct. 15	437	2	1,836	120
M. Washington	1779 June 21	91	1	467	130
Dalton*	1784 Mar. 20	190	1	817	120
Cheshire*	1793 Mar. 14	270	1	1,202	120
Savoy*	1797 Feb. 20	187	1	852	120
Southfield (D.)	1797 June 19		0	147	112
Clarksburg	1798 March 2	60	0	274	125
New Ashford	1801 Feb. 26	91	0	358	124
Hinsdale*	1804 June 21	180	1	822	125
Florida*	1805 June 15	95	0	431	130
Boston Corner		11	0		135
Gore West of Williamst'n		11	0	92	140
Monroe	1822 Feb. 21				135
Zoar	1822			150	
34		6,668	35	35,727	

NORFOLK.

ıc. 1793.—Sends 3 Senators to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820	D.f.B.
chester	1630 Sept. 7	805	3	3,684	4
:bury	1630 Sept. 28	1,077	5	4,135	2½
rmouth*	1635 Sept. 2	587	2	2,407	11
lham**	1636 Sept. 8	600	3	2,492	9
intree	1640 May 13	322	1	1,466	8
lfield*	1651 May 23	198	†1	1,440	15
:on*	1662 May 7	375	2	1,502	7
·ntham**	1673 Oct. 15	616	3	2,801	21
ɔkline	1705 Nov. 13	211	1	900	6
dham*	1711 Nov. 5	286	1	1,227	12
lway**	1713 Oct. 24	386	2	1,523	20
ingham*	1719 Nov. 27	259	1	1,034	26
pole*	1724 Dec. 10	305	1	1,366	20
ıghton*	1726 Dec. 22	242	1	1,313	15
:on*	1765 June 20	224	1	1,010	17
asset*	1770 April 26	272	1	1,099	20
ıklin*	1778 March 2	394	2	1,630	26
borough*	1778 June 10	227	1	1,004	26
er D.	1784 July 7	129	‡0	548	16
ıcy*	1792 Feb. 23	377	2	1,623	8
dolph*	1793 March 9	420	2	1,546	15
ton*	1797 Feb. 23	300	1	1,268	14
22		8,612	37	36,462	

HAMPDEN.

c. 1812.—Sends 2 Senators to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820.	D.f.B.
ngfield*	1645 March	837	4	3,914	97
tfield*	1669 May 19	547	2	2,668	105
ıfield*	1731 July 14	423	2	1,612	75
dford*	1741 April 10	364	1	1,515	116
ıer*	1752 June 30	264	1	1,197	82

ıites *with Dover.* ‡Unites with Medfield.

Towns.	Incorporated	Rat. Polls.	Reps.	Cen. 1820	D.f.B
Granville**	1754 Jan. 25	380	2	1,643	120
Monson*	1760 April 25	441	2	2,126	80
S. Brimfield	1762 Sept. 18	161	†1	683	80
Wilbraham*	1763 June 15	435	2	1,979	89
Chester*	1765 Oct. 31	294	1	1,526	120
Southwick*	1770 Nov. 7	375	2	1,255	110
W.Spr'gfi'd***	1774 Feb. 23	830	4	3,246	100
Ludlow*	1774 Feb. 28	273	1	1,246	90
Montgomery	1780 Nov. 28	149	‡0	604	100
L. Meadow*	1783 Oct. 13	321	1	1,171	97
Russell*	1792 Feb. 25	99	0	491	108
Tolland*	1810 June 14	155	1	692	125
Holland*	1788 July 5	107	‖0	453	75
18		6,455	27	28,730	

FRANKLIN.

[Inc. 1811.—Sends 2 Senators to General Court.]

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820.	D.f.B.
Deerfield**	1682 May 24	411	2	1,868	98
Northfield*	1713 Feb. 22	348	1	1,584	94
Sunderland*	1718 Nov. 12	154	1	597	90
Greenfield*	1753 June 9	299	1	1,361	95
New Salem*	1753 June 15	476	2	2,146	80
Montague*	1753 Dec. 22	236	1	1,074	87
Colraine*	1761 June 30	489	2	1,961	105
Shutesbury*	1761 June 30	226	1	1,026	80
Barnardstown*	1762 March 6	201	1	912	96
Warwick*	1763 Feb. 17	281	1	1,256	80
Ashfield*	1764 June 21	405	2	1,748	105
Charlemont*	1765 June 21	271	1	1,081	110
Conway*	1767 June 16	382	2	1,705	100
Shelburne	1768 June 21	225	1	1,022	100
Whately*	1771 April 24	270	1	1,076	90

†Unites with Holland.

‡The Constitution went into operation Oct. 25, therefore this town is not entitled to a Representative without 150 ratable polls.

‖Unites with South Brimfield.

Towns.	Incorporated.	Rat. Polls.	Reps.	Cen. 1820	D.f.B
Leverett*	1774 March 9	189	1	857	85
Buckland*	1779 April 14	236	1	1,037	105
Wendell*	1781 May 8	232	1	958	80
Orange*	1783 Oct. 15	182	1	829	75
Rowe*	1785 Feb. 9	201	1	851	130
Heath*	1785 Feb. 14	247	1	1,122	125
Hawley*	1792 Feb. 7	240	1	1,089	121
Gill*	1793 Sept. 28	181	1	800	90
Leyden	1809 Feb. 22	214	1	674	100
Ervin's Grant*		72		331	80
25		6,668	29	29,289	

MISCELLANEOUS ITEMS.

Counties,	14
Towns in 1825,	307
Post Offices, 1825 Feb. 1,	304
Ratable Polls in 1822,	122,715
*Census of 1820,	523,287
Senators, entitled to, in 1822,	40
Representatives, do.	510
Amount of taxable property in the State,	9,218,656 10
Attorneys at Law,	510
Sheriffs and Deputies,	205
Justices of the Peace, including Justices through the State, and of the Quorum,	2,283
Coroners	393
Notaries Public	91
Academies Incorporated,	27
Banks Incorporated,	33
Insurance Companies Incorporated,	31
Turnpikes Incorporated,	92
Manufactories Incorporated	157
Amount of their Capital,	$21,626,000
Militia,	52,708

*The Census is taken every ten years.

Arranged into Divisions,	7
Brigades,	16
Regiments of Infantry,	66
Battalions of Regiments,	1
Regiments of Cavalry,	5
Battalions of Regiments,	8
Regiments of Artillery,	4
Battalions of Regiments,	13

Witnesses' Fees, in Civil or Criminal Causes.

At the Supreme Judicial Court, Court of Common Pleas, or Court of Sessions, $1,00 per day.

Before a Justice of the Peace, Referees or Arbitrators, 33 cents per day, and in every case, 4 cents per mile for travel each way.

The fees in *Criminal Cases*, before the Supreme Judicial Court, or Court of Common Pleas, are paid out of the respective County Treasuries.

N. B. Witnesses must attend the Courts personally, and certify *in writing*, their time and travel, or they will not be allowed.

Parties' Fees.

To the party recovering costs in any of the above courts, 33 cents for each day's attendance and travel, ten miles to be accounted as one day. For certain exceptions to this rule, see Statute 1795 C. 41, Sec. 1.

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